

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into as of this 22nd day of January 2002, by and between the ELK VALLEY RANCHERIA, a federally recognized Indian tribe ("Tribe") located at 440 Mathews Street, Crescent City, California 95531, and the COUNTY OF DEL NORTE, a political subdivision of the State of California ("County"), located at 981 H Street, Suite 200, Crescent City, California 95531. The Tribe and County shall be collectively referred to in this Agreement as the "Parties."

1.0 INTRODUCTION

- 1.1 The Tribe is a federally recognized Indian tribe which occupies a reservation ("Rancheria") within County's geographic boundaries.
- 1.2 The historical existence of the Tolowa comprising the contemporary citizenship of the Elk Valley Rancheria, which survived the Gold Rush and subsequent settlement of Del Norte County by non-Indians, has been documented by many historians and the U.S. Department of the Interior.
- 1.3 In 1908, the United States acquired approximately 200 acres, of the original 600,000 acres, in trust for the Elk Valley Rancheria.
- 1.4 In 1953, as part of a federal policy designed to assimilate the nation's Indians, the United States Congress enacted the California Rancheria Act, P.L. 85-671, authorizing the termination of federal trust responsibilities to a number of California Indian tribes, including the Elk Valley Rancheria.
- 1.5 On July 16, 1966, the federal recognition of the Elk Valley Rancheria was terminated and the lands comprising the Elk Valley Rancheria in Del Norte County was sold off to individuals.
- 1.6 In 1988, federal recognition of the Elk Valley Rancheria was restored as well as re-assumption by the U.S. Department of the Interior's trust responsibility for the Elk Valley Rancheria pursuant to a stipulated judgment.
- 1.7 Under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.* ("IGRA"), the Tribe may engage in gaming as a means of raising tribal revenues and achieving self-sufficiency. "Class III gaming" requires that the Tribe enter into a Tribal-State Class III Gaming Compact with the State of California ("Compact").
- 1.8 In May 2000, a Compact executed between the Tribe and the State of California in September 1999 became legally effective. Among other things, the Compact authorizes the Tribe to engage in Class III gaming under IGRA and requires the Tribe to meet and confer with local governments on a government-to-government basis with respect to the construction and operation of a gaming project (including mitigation of off-reservation impacts) pursuant to the Compact.

- 1.9 The Tribe has determined that the kind of gaming project envisioned in the Compact would assist it in developing and funding tribal governmental programs which address the educational, elderly, medical, job training and employment needs of the Tribe, as well as funding other tribal governmental programs and benefits. Without a gaming project, such programs and benefits generally would be unavailable to the Tribe or its members, or if available, would only be provided from federal governmental sources that would render the Tribe dependent and insufficiently funded. The Tribe and its members desire to be economically viable and self-sufficient, and the kind of gaming project anticipated in this MOU and under the Compact provides the Tribe with that opportunity. Accordingly, the Tribe has determined that it is in its and its members' best interest to acquire additional land and place such property "in trust" for gaming and other economic development purposes and to relocate its existing casino to said property in order to assist the Tribe in reaching its economic needs and goals.
- 1.10 The Tribe desires to operate its gaming project in a manner that benefits the Tribe, its members and the community as a whole, and the County recognizes the mutual benefit that can be derived if that goal is achieved. Accordingly, the Tribe and the County have participated in a series of meetings with each other to hear and consider the ways in which each government can assist the other in making the project one that is mutually beneficial while being consistent with the Tribe's governmental needs.
- 1.11 This MOU embodies the concepts and agreements developed by the Tribe and the County to date as a result of those meetings and continuing dialogue, and is intended to legally bind the Parties to the obligations and government-to-government framework created in this MOU, so that the Project may better serve the mutual interests of the Tribe and the County and their communities.

NOW, THEREFORE, THE PARTIES HAVE REACHED THE FOLLOWING UNDERSTANDINGS:

2.0 DEFINITIONS

- 2.1 "Commencement Date" means the date the Tribe opens its gaming facility for commercial operation on the Property.
- 2.2 "County" means the County of Del Norte, a political subdivision of the State of California.
- 2.3 "Development" means a change in the density or intensity of use of land; construction, reconstruction, demolition, or alteration of any structure; the placement or erection of any solid material or structure, grading, or substantial surface or subsurface alteration of land.

2.4 “Enterprise” means the commercial gaming business of the Tribe authorized by the IGRA and the Compact and operated on the Property.

2.5 “Facility” means the buildings, improvements and fixtures hereafter located therein or thereon and housed on the Property and within which the Enterprise will be operated. Title to the Property and the Facility shall merge and be held by the United States of America in trust for the Tribe.

2.6 “IGRA” means the Indian Gaming Regulatory Act of 1988, P.L. 100-497, codified at 25 U.S.C. §§ 2701 *et seq.*, and as such may be amended from time to time.

2.7 “Impact Fees” means the funds described in Paragraph 11.1 of this MOU to be paid to the County in exchange for County services to be provided to the Property, including the Enterprise and the Facility.

2.8 “Project” means all Development contemplated by this MOU, including but not limited to the construction and operation of a Tribal casino, resort hotel, conference center or championship golf course.

2.9 “Property” or “Properties” means the parcel(s) of land described in Exhibit A, attached.

2.10 “Tribe” means the Elk Valley Rancheria, a federally recognized Indian tribe.

3.0 EFFECTIVE DATE OF MOU; EFFECT ON PREVIOUS MOUS; TERM

3.1 **Effective Date of MOU.** This MOU shall become effective immediately upon execution by the Parties.

3.2 **Previous MOUs Superseded.** County and Tribe previously entered into a Memorandum of Understanding dated May 9, 2000, describing Tribe’s agreement to voluntarily contribute to the County a monetary amount equal to that which was lost due to placement of private property into tribal trust lands. Subject to Paragraph 11.0 of this MOU, to the extent that the May 9, 2000, Memorandum of Understanding is inconsistent with this MOU, it is hereby superseded and is no longer of any force or effect upon the effective date of this MOU.

3.3 **Term.** This MOU shall be in full force and effect until December 31, 2030, or until the Tribe ceases gaming pursuant to the Compact referred to in Section 1.3 of this MOU, whichever is sooner.

4.0 DESCRIPTION OF PROJECT

4.1 **Land to be Taken into Trust.** The Tribe has requested the United States to take into trust for its benefit the parcels described in Exhibit A (the “Properties”).

- 4.2 Class III gaming will be conducted only on Rancheria land or on land which otherwise qualifies for Class III gaming under IGRA Section 20, 25 U.S.C. § 2719.
- 4.3 The proposed site for gaming consists of approximately 200 acres of land located near Highway 101 and Humboldt Road – commonly known as the Martin Ranch. The Tribe has applied to the federal government to acquire said Property “in trust” and to use said site for the Project.
- 4.4 **Civil Jurisdiction.** The parties recognize and agree that, upon acceptance of the Property in trust for the Tribe by the United States, the Tribe shall exercise full civil jurisdiction over the Property, including jurisdiction over Gaming pursuant to the IGRA, except as otherwise provided by applicable federal law, the Compact, or this agreement.

5.0 ENVIRONMENTAL STUDY

- 5.1 Pursuant to Section 10.8 of the Compact, the Tribe adopted an Off-Reservation Impact Ordinance which addresses the process for reviewing any off reservation environmental impacts of the Project. In accordance with that Ordinance, an appropriate environmental study will be prepared and circulated to various state and local governmental agencies, and comments received will be considered by the Tribe.
- 5.2 In addition to the formal process outlined in the Ordinance, early informational meetings between the Tribe and various local agencies will be held.
- 5.3 **No Application of CEQA.** The Tribe’s environmental review process is not governed by the California Environmental Quality Act (CEQA), and the Tribe does not agree to submission of any of its projects for discretionary approvals by the County. The Tribe shall be responsible for compliance with the National Environmental Policy Act (NEPA).

6.0 DEVELOPMENT CONSISTENT WITH COUNTY’S GENERAL PLAN

- 6.1 The Tribe has adopted a comprehensive Zoning Ordinance, a copy of which is hereby incorporated by reference and attached hereto as Exhibit B. On or before the effective date of this MOU, the Tribe shall zone the Property Planned Unit Development under its Zoning Ordinance. The Tribe shall give thirty (30) days’ advance notice to the County of the meeting/hearing (“Hearing”) at which the Tribal Council for the Tribe, sitting as the Tribal Planning Commission will consider adoption of a specific plan (“Plan”) for the development of the Property under the Tribe’s Zoning Ordinance. The County shall have the right to review and comment on the Plan and to be present at and submit documents and testimony to the Tribal Planning Commission on the Plan at the Hearing. The Tribal Planning Commission shall, in good faith, consider the County’s comments

and shall make reasonable effort to incorporate the County's comments or recommendations into the Plan. The Plan adopted by the Tribal Planning Commission shall be reasonably consistent with the County's General Land Use Plan subject to the Tribe's purposes in entering into this MOU.

7.0 LAW ENFORCEMENT; PROSECUTION; FIRE; AND EMERGENCY SERVICES

- 7.1 **Criminal Jurisdiction.** As a matter of federal law, Public Law 280, most state criminal laws continue to apply on Indian trust lands and the County's Sheriff's Department retains jurisdiction over the enforcement of those laws. The Sheriff shall have authority to enforce all state criminal laws on the Property, except state gambling laws, in the same manner and to the same extent as the Sheriff has such jurisdiction elsewhere in the County. The Tribe and County hereby agree to jointly discuss and develop a protocol prior to opening of the gaming facility regarding notification of the Tribe by the Sheriff's Department regarding entry of the property and investigation or enforcement of state criminal laws.
- 7.2 The Tribe hereby consents to the entry of the Sheriff's Department on the Property for purposes of providing those routine law enforcement services (e.g., service of process) as to which entry is required under Public Law 280. The Sheriff's Department shall seek the Tribe's permission to enter onto the Property for purposes other than such routine services.
- 7.3 All prosecutions for violations of law at the Property and within the Facility itself shall be conducted by the District Attorney for County in state court without regard to whether the charges are filed against Indians (including members of the Tribe) or non-Indians, except as such distinctions are recognized under law.
- 7.4 The Tribe shall have the right to name a liaison person with whom the District Attorney for County may consult with regarding such prosecutions, but prosecutorial decisions and strategies shall be exclusively within the discretion of the District Attorney for County.
- 7.5 **Emergency Services.** County shall provide emergency response services to the Project on the same basis and to the same extent it does with respect to the citizens and businesses within the County.
- 7.6 **Fire Services.** Crescent Fire Protection District shall provide fire response services to the Project. Should County in the future be responsible to provide fire response services to the Project, County shall provide such services on the same basis and to the same extent it does with respect to the citizens and businesses within the County.

8.0 SEWER, WATER, AND INFRASTRUCTURE IMPROVEMENTS

- 8.1 The Tribe is responsible for providing or otherwise obtaining all on-site water and sewer services for the Project by contracting as follows:
- 8.1.1 For water, with the Bertsch Oceanview Community Services District or other sources (including the Tribe); and
 - 8.1.2 For sewer services, with the existing County Service Area #1 sewage collection system or other sources (including an independent sewage treatment plant constructed by the Tribe).
- 8.2 **Roads.** The Tribe will mitigate traffic and circulation issues in conformity to County's requirements. The Tribe agrees to pay all required traffic mitigation fees consistent with County fee programs/ordinances; provided that the Tribe shall not be required to pay any fees for the development which would not customarily be required of a non-tribal developer.
- 8.2.1 **Highway 101; County Road Improvements.** Traffic impacts from the Project may affect U.S. 101 which is under the jurisdiction of Caltrans. Tribe agrees to work with Caltrans and the County to ensure these impacts are mitigated as needed.
 - 8.2.2 **County Road Improvements.** Intersection of U.S. 101 and Humboldt Road. Tribe will provide improvements to the intersection of U.S. 101 and Humboldt Road. Improvements shall be made according to current Caltrans and County construction and design standards, and require Caltrans and County permits, as appropriate. Improvements may include a right-turn deceleration lane for northbound vehicles, a southbound left-turn lane, and associated directional signage and road striping. Tribe will be responsible for the full cost of the actual improvements. Tribe will perform necessary traffic studies, designs, and permit applications.
 - (b) Intersection of U.S. 101 and Sandmine Road. Tribe will provide improvements to the intersection of U.S. 101 and Sandmine Road. Improvements shall be made according to current Caltrans and County construction and design standards, and require Caltrans and County permits, as appropriate. Improvements may include sight distance improvements and signage.
 - 8.2.3 Intersection of Humboldt Road, Sandmine Road and Tribe's Project Driveway. Tribe shall provide frontage improvements at the intersection of Humboldt Road, Sandmine Road and the Tribe's Project Driveway.
 - 8.2.4 Tribe will be responsible for reasonably complying with approved plans and specifications and will make any reasonable changes as requested by

County staff following construction inspections.

8.2.5 County will perform a final inspection of road improvements to verify construction according to County approved permits.

8.2.6 Where County is responsible for the balance of project costs beyond the amounts to be paid by Tribe under this Agreement, County will rely upon and will obtain those funds from typical County capital project funding sources such as contributions from new development projects, e.g., Federal Highway Administration (FHWA), Gas Tax, etc.

8.2.7 County shall use best efforts to secure funds from the Special Distribution Fund (as provided in the Compact) to mitigate off-reservation impacts of the Project, if any.

8.3 **Parity of Municipal Obligations.** The parties intend that the scope of obligations and liabilities of the County to the Tribe and its Enterprise or Facility regarding municipal services shall be on a parity with those obligations and liabilities which normally operate with respect to the citizens and businesses within the jurisdiction of the County.

8.4 All approvals required by this section shall not be unreasonably withheld, delayed or conditioned, and the standards referred to in this section shall be substantially identical to those applied to similarly situated users.

9.0 BUILDING AND SAFETY STANDARDS AND SERVICES

9.1 The Tribe shall construct the Project in accordance with the then current Uniform Building Code (as adopted at the time of commencement of Development) or as otherwise approved by the Tribe.

9.2 The County shall assist the Tribe in implementing the aforesaid building standards by:

9.2.1 Assigning a building inspector as needed on-site to conduct inspections on a timely basis.

9.2.2 By agreeing to the provisions of this Paragraph 9.0, the Tribe is not consenting to the jurisdiction of the County Department of Community Development to enforce County's Building Code or any other local regulation on the Property or against the Tribe. Subject to Paragraph 13.1, the Tribe shall defend, indemnify, and hold harmless the County, its officials and employees, from and against all claims, lawsuits, liabilities and damages arising directly or indirectly out of any inspection conducted pursuant to this Paragraph 9.0 or arising directly or indirectly from any decision by the Tribe to deviate from the County's Building Code or other

local regulation in the Development of the Property.

10.0 FOOD FACILITIES

- 10.1 The Tribe shall adhere to the California Uniform Retail Food Facilities Law and any applicable County ordinances regarding food handling and preparation when operating any facility located on the Property which sells or gives away any food and/or beverages to any persons.
- 10.2 The County Health Department shall conduct all required inspections of the food and beverage facilities located on the Property. Said inspections shall include, but are not limited to, plan checks, on-site inspections, and start up certifications. The generally applicable inspection fees provided for by the County's Master Fee Ordinance shall be paid to the County's Health Department at the time of each inspection or service. By agreeing to the provisions of this Section, the Tribe is not consenting to the jurisdiction of the County to enforce said standards. Subject to Paragraph 13.1, the Tribe shall defend, indemnify, and hold harmless the County, its officials and employees, from and against all claims, lawsuits, liabilities and damages arising directly or indirectly out of any inspection conducted pursuant to this Paragraph 10.0 or arising directly or indirectly from any decision by the Tribe to deviate from the California Uniform Retail Food Facilities Law or related County ordinances in the operation of food or beverage facilities on the Property.

11.0 IMPACTS ON COUNTY SERVICES

- 11.1 **Impact Fees.** If the Tribe is successful in its application for the United States to take the property into trust for gaming purposes, the Tribe shall pay Impact Fees to the County on an annual basis as described in this Paragraph 11.1 in the following amounts:
- (a) Three thousand six dollars (\$3,006) from the date the Property is accepted in trust by the United States until the Commencement Date, which amount represents three-tenths of one percent (.3%) of the assessed value of the Property.
 - (b) Commencement Date through the third anniversary of the Commencement Date: \$25,000.
 - (c) Fourth anniversary of the Commencement Date through the seventh anniversary of the commencement date: \$50,000.
- 11.1.1 **Schedule of payments.** All payments shall be made annually in arrears, the first payment to be made on the fifteenth day of the next month following the acceptance of the Property in trust by the United States and thereafter on or before January 1st of each year following the

Commencement Date.

- 11.1.2 **Re-Negotiations of Payments.** Following the seventh anniversary of the Commencement Date, the parties shall negotiate in good faith regarding continuing payments by the Tribe to the County, provided, however, that in no event shall the agreed-upon payment be less than the amount Section 11.1(c) of this MOU or exceed \$90,000 for the remaining term of this MOU.
- 11.1.3 **Imposition of Property Tax.** In the event that the Property is determined by a final decision of a court of competent jurisdiction to be subject to County's property tax, Tribe agrees to pay said tax; *provided, however*, that nothing herein shall waive the Tribe's right to challenge any related assessment or tax; and *provided further* that the provisions of Paragraphs 11.1, 11.1.1 and 11.1.2 shall immediately be of no further force or effect upon a determination that the Property is subject to County's property tax; *provided further*, that upon a final determination that Property is subject to property tax, Impact Fees previously paid during the period for which property taxes are assessed shall be re-characterized as property tax and credit given for such payments.
- 11.1.4 **Status Under Federal Law – No Liens on Property.** This MOU does not constitute, create or convey an interest or encumbrance in real estate and shall not be recorded in any real estate records. In the event of default by the Tribe hereunder, the County's remedies, other than remedies granted for the purpose of enforcing the Tribe's agreement to arbitrate as herein provided, or for injunctive relief or specific performance to the extent specifically permitted in Paragraph 14, shall be strictly limited to an award or money judgment for damages against the Tribe's interest in the assets identified in Paragraph 14.5.5(a). The Tribe is not granting to or conferring upon the County any regulatory authority with respect to the Properties, Facility or Enterprise which is inconsistent with applicable federal law.
- 11.2 **Transient Occupancy Tax.** If the Tribe is successful in its application for the United States to take the property into trust for gaming purposes, the Tribe shall adopt an ordinance imposing a transient occupancy or bedroom tax on all non-Tribal members who use or occupy any room in any hotel constructed by the Tribe on the Property. The rate of the tax shall be ten percent (10%) of the room rate. The Tribe shall levy and collect the tax and remit ninety percent (90%) of the tax revenues to the County. The Ordinance adopted by the Tribe pursuant to this paragraph shall be in substantially the same form and contain substantially the same provisions as the County's Transient Occupancy Tax Ordinance and shall remain in effect at all times that the Tribe operates a hotel or otherwise makes available rooms to rent.
- 11.3 **Sales, Use & Motor Fuels Tax.** If applicable federal, state, or local law exempts

the Tribe from collecting or remitting to the State of California or the County any state or local sales, use, motor fuels or gasoline tax resulting from any sale to any non-Indian, the Tribe shall enact a Tribal ordinance imposing its own Tribal sales, use, or motor fuels tax and the Tribe shall pay to the County, that portion of the Tribal sales, use or motor fuels tax, that the County would have received if the Tribe had not been granted the exemption.

12.0 SUPPORT FOR TRUST APPLICATION

- 12.1 In consideration for the obligations undertaken by the Tribe herein, the County shall provide correspondence demonstrating the County's support for the Tribe's land into trust applications to the United States Department of Interior, Bureau of Indian Affairs ("BIA"), the State of California and any other governmental agencies or officials whose approval or cooperation must be obtained, as reasonably requested by the Tribe, and shall actively support and do all things reasonably necessary, including but not limited to sending letters, attending meetings and responding to inquiries related to said application, in a form and manner that is consistent with the intent of this Section 12.1.

13.0 LIMITED WAIVER OF SOVEREIGN IMMUNITY

- 13.1 The Tribe agrees to waive its sovereign immunity in favor of the County and no other as to the enforcement of the Tribe's obligations under this MOU. No claims for damages, other than the recovery of payments expressly provided for herein, are contemplated by this limited waiver of sovereign immunity. No other waiver of immunity shall be deemed to be granted, either expressly or impliedly, under this MOU. This waiver shall not be deemed to run in favor of any third party, nor shall this MOU be deemed to be a third-party beneficiary contract of any kind except as to those specific governmental agencies provided for herein. The Tribe's governing body shall execute a formal Resolution of Limited Waiver of Sovereign Immunity consistent with this section and in substantially identical form as attached hereto as Exhibit C.
- 13.2 The County agrees to submit all disputes arising pursuant to this MOU to Arbitration, and agrees to waive any jurisdictional immunities it might otherwise enjoy or be entitled to assert which might prevent an arbitrator from hearing or deciding, or a court from enforcing, an arbitration award or order.
- (a) The County consents to be sued in any of the following: the Superior Court of California in Del Norte County, the California Court of Appeals for the First District, the California Supreme Court, the United States District Court for the Northern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court ("Forum Courts"). The parties agree that suit may be brought in any of the Forum Courts for the purpose of compelling compliance with the provisions of this MOU by injunctive relief or specific performance or

compelling arbitration or enforcing any arbitration award or judgment arising out of this MOU.

- (b) The Tribe and the County prefer to have disputes resolved by arbitration as provided in this Paragraph 13. Only to the extent that arbitration does not provide an effective remedy, the parties agree that disputes arising out of the provisions of this MOU shall first be presented to the Forum Courts as hereinafter provided. After a final determination that jurisdiction does not lie with the Forum Courts, and that the only effective jurisdiction lies with the Tribal Court, if and after it is established, the parties agree that the Tribal Court shall then hear and decide the matter.

14.0 DISPUTE RESOLUTION

14.1 Meet and Confer Process.

In the event the County or the Tribe believes that the other has committed a possible violation of this MOU, it may request in writing that the parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem within fifteen (15) days of the date of service of said request provided that if the complaining party believes that the problem identified creates a threat to public health or safety, the complaining party may proceed directly to arbitration as provided in Paragraph 14.5 below.

14.2 Notice of Disagreement.

If the complaining party is not satisfied with the result of the meet and confer process, the complaining party may provide written notice to the other identifying and describing any alleged violation of this MOU ("Notice of Disagreement"), with particularity, if available, and setting forth the action required to remedy the alleged violation.

14.3 Response to Notice of Disagreement.

Within fifteen (15) business days of service of a Notice of Disagreement, the recipient shall provide a written response either denying or admitting the allegation(s) set forth in the Notice of Disagreement, and, if the truth of the allegations are admitted, setting forth in detail the steps it has taken and/or will take to cure the violations. Failure to serve a timely response shall entitle the complaining party to proceed directly to arbitration, as provided in Paragraph 14.5 below.

14.4 Threats to Public Safety.

If the County or the Tribe reasonably believes that in violation of this MOU the other's conduct has caused or will cause a significant threat to public health or

safety, resolution of which cannot be delayed for the time periods otherwise specified in this section, the complaining party may proceed directly to the Arbitration Procedures set out in Paragraph 14.5 below, without reference to the Meet and Confer or Notice of Disagreement processes set out in Paragraphs 14.1, 14.2 and 14.3 above, and seek immediate equitable relief. At least twenty-four (24) hours before proceeding in this manner, the complaining party shall provide to the other a written request for correction and notice of intent to exercise its rights under this Paragraph 14.4, setting out the legal and/or factual basis for its reasonable belief that there is a present or an imminent threat to public health or safety.

14.5 Binding Arbitration Procedures.

Subject to prior compliance with the Meet and Confer process set out above in Paragraph 14.1, and the Notice and Response process in Paragraphs 14.2 and 14.3 above, and except as provided in Paragraph 14.4, either party has the right to initiate binding arbitration to resolve any dispute arising under this Agreement. The arbitration shall be conducted in accordance the following procedures:

- 14.5.1 The arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules.
- 14.5.2 The arbitration shall be held in Crescent City, California, unless otherwise agreed. The arbitrator shall be empowered to grant compensatory, equitable, and declaratory relief. The provisions of California Code of Civil Procedure § 1283.05 are incorporated into, and made a part of this MOU; *provided, however*, that no discovery authorized by said section may be conducted without leave of the arbitrator, who shall decide to grant leave based on the need of the requesting party and the burden of such discovery in light of the nature and complexity of the dispute.
- 14.5.3 If either party requests an oral hearing, the arbitrator shall set the matter for hearing. Otherwise, the arbitrator shall decide whether to set the matter for hearing.
- 14.5.4 The resulting award shall be in writing and give the reasons for the decision, Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The costs and expenses of the American Arbitration Association and the arbitrator shall be shared equally by and between the parties.
- 14.5.5 Limitation of Actions. The Tribe's waiver of immunity from suit is specifically limited to the following actions and judicial remedies:
 - a) Damages. The enforcement of an award of money and/or damages by arbitration; provided that the arbitrator(s) and/or the court shall have

no authority or jurisdiction to order execution against any assets or revenues of the Tribe except: (i) undistributed or future Net Revenues of the Enterprise; (ii) the future Net Revenues of any other gaming operations conducted by the Tribe; (iii) the assets of the Enterprise itself. In no instance shall any enforcement of any kind whatsoever be allowed against any assets of the Tribe other than the limited assets of the Tribe specified in this Section.

- b) Consents and Approvals. The enforcement of a determination by an arbitrator that either party's consent or approval has been unreasonably withheld contrary to the terms of this MOU.
- c) Injunctive Relief and Specific Performance. An action that prohibits any party ("non-performing party") from taking any action that would prevent the other party ("performing party") from performing any duty or obligation pursuant to the terms of this MOU, or that requires any party ("non-performing party") to specifically perform any obligation under this MOU (other than an obligation to pay money which is provided for in subsection (a) above).
- d) Action to Compel Arbitration. An action to compel arbitration pursuant to this Paragraph 14.
- e) Action to Preserve the Status Quo During Disputes. An action to preserve the status quo during disputes pursuant to Paragraph 14.

Those actions specified in subsections c), d) and e), above may be judicially initiated.

15.0 JUDICIAL REVIEW

- 15.1 The parties consent to judicial confirmation and enforcement of any award in arbitration, which enforcement shall be in the United States District, Northern District of California, if it has jurisdiction over the dispute, and if not in the Superior Court of the State of California, County of Del Norte. Service of process in any such judicial proceeding is waived in favor of delivery of court documents by Certified Mail - Return Receipt Requested to the following:

FOR THE TRIBE:

Tribal Chairman
Elk Valley Rancheria
440 Mathews Street
Crescent City, CA 95531
Telephone: (707) 464-4680
Facsimile: (707) 464-4519

FOR THE COUNTY:

Chair, Board of Supervisors
County of Del Norte
981 H Street, Suite 200
Crescent City, CA 95531
Telephone: (707) 464-7204
Facsimile: (707) 464-1165

With a copy to:

Bradley G. Bledsoe Downes
Dorsey & Whitney LLP
650 Town Center Drive, Suite 1850
Costa Mesa, California 92626
Telephone: (714) 662-7300
Facsimile: (714) 662-5576

With a copy to:

County Counsel
County of Del Norte
981 H Street, Suite 220
Crescent City, California 95531
Telephone: (707) 464-7208
Facsimile: (707) 465-0324

16.0 MISCELLANEOUS

- 16.1 **Amendment or Modification.** This MOU may be modified or amended only by a written instrument executed by the Tribe and the County, pursuant to the same authorizations used to execute this MOU in its original form.
- 16.2 **Entire Agreement.** This MOU is the entire agreement between the parties and supersedes all prior written and oral agreements, if any, with respect to the subject matter hereof.
- 16.3 **Time for Annual Payments.** Unless otherwise provided herein, with regard to annual payments required under this MOU, the time for the delivery to the County of such payments shall be no later than January 1st of each calendar year. Payments should be made payable to the "County of Del Norte" and sent to the Tax Collector's Office, County of Del Norte, 981 H Street, Suite 150, Crescent City, California 95531.
- 16.4 **Severability.** Except as otherwise provided in this Paragraph 16.4, the invalidity of any provisions or portion of a provision of this MOU as determined by a court of competent jurisdiction shall not affect the validity of any other provisions of this MOU or the remaining portions of the applicable provisions. If any provision of this MOU is declared invalid by a court of competent jurisdiction which results in the diminution of any payments or financial obligations of the Tribe to the County, then the parties shall use their best efforts to renegotiate the terms of the invalid provisions; in the event that the parties are unable to successfully renegotiate the invalid terms, then they shall resolve the matters at issue through the dispute resolution provisions of this MOU.
- 16.5 **Force Majeure.** In the event of a forced delay in the performance by either party of obligations under this MOU due to the closure of the Project, acts of God or of the public enemy, acts of inaction of the other party or its employees or agents, strikes, lockouts, unusual delay in transportation, unavailability of materials, fires, floods, catastrophic weather or other natural disasters, epidemics, riots, insurrection, war or unavoidable casualties or a change in application gaming laws or the Compact materially diminishing the economics of the Project as anticipated at the time this MOU was executed, the time for performance shall be adjusted or extended, or in the case of a material diminishment in the Project,

renegotiated, in light of such changed circumstances.

- 16.6 **Obligations to Continue During Term.** Unless specifically designated otherwise, all of the parties' obligations under this MOU shall continue throughout the term of this MOU.
- 16.7 **Governing Law.** This MOU shall be construed pursuant to the applicable federal laws and the laws of the State of California.
- 16.8 **Mutual Good Faith.** Throughout the term of this MOU, the parties agree to exercise good faith and to observe the covenants contained herein.
- 16.9 **No Third Party Beneficiaries.** This MOU is not intended to, and shall not be construed to, create any right on the part of a Third Party to bring an action to enforce any of its terms.
- 16.10 **Standard of Reasonableness.** Unless specifically provided otherwise, all provisions of this MOU and all collateral agreements shall be governed by a standard of reasonableness.
- 16.11 **Plain Meaning.** Where terms, phrases or words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. The edition current on January 2002 of Webster's Third New International Dictionary of the English Language, Unabridged shall be considered as providing ordinarily accepted meanings.
- 16.12 **Captions.** The captions of each paragraph, section, or subsection of contained in the MOU are for ease of reference only and shall not affect the interpretation or meaning of this MOU.
- 16.13 **Preparation of MOU.** This MOU was drafted and entered into after careful review and upon the advice of competent counsel; it shall not be construed more strongly for or against either party. This MOU may not be unilaterally amended and shall be strictly construed as set forth herein to accomplish the purposes of the MOU.
- 16.14 **Authorization.** Chairman, Dale Miller, has been authorized by an appropriate resolution of the Elk Valley Tribal Council to execute this MOU pursuant to the Tribe's Constitution, which authorizes the Tribal Council to enter into agreements with local governments to promote the health and general welfare of the Tribe. The County warrants that the Chairman of the County Board of Supervisors, by appropriate resolution of the Board of Supervisors, has been authorized to execute this MOU on behalf of the County.

17.0 REVIEW BY THE DEPARTMENT OF THE INTERIOR

17.1 The parties shall submit this MOU to the United States Department of the Interior for either (a) approval pursuant to 25 U.S.C. § 81, or (b) a written response that this MOU does not require approval under 25 U.S.C. § 81. The County's signature to this MOU is expressly contingent upon the approval called for in this paragraph, and the County has the right to withdraw its support for the MOU if it is not submitted to the Department of the Interior pursuant to this Section or is rejected by the Department of Interior as unacceptable and unenforceable.


Executed and delivered as of the date first written above in Crescent City, California.

ELK VALLEY RANCHERIA, A
FEDERALLY RECOGNIZED INDIAN
TRIBE

COUNTY OF DEL NORTE, A POLITICAL
SUBDIVISION OF THE STATE OF
CALIFORNIA


By: _____
Its: _____

JAN 22 2002

By: 
Its: Chuck Blackburn, Chairman of
the Board of Supervisors

ATTESTED:

APPROVED AS TO LEGAL FORM

By: 
Its: _____ CLERK of the Board
Karen L. Phillips

By: 
ROBERT BLACK,
County Counsel

SECTION 81 APPROVAL

The undersigned finds that this Memorandum of Understanding between the County of Del Norte and the Elk Valley Rancheria complies with and satisfies the requirements of Title 25 of the United States Code § 81. Accordingly, pursuant to the authority delegated to me by 290 DM8 and 10 BIAM 3, the undersigned hereby approves this Agreement.

APPROVED this _____ day of _____, 200__.

SECRETARY OF THE UNITED STATES
DEPARTMENT OF THE INTERIOR

By: _____
Regional Director of the Pacific Region of the
Bureau of Indian Affairs for the Secretary of the
Interior and the Commissioner of Indian Affairs

EXHIBIT LIST

EXHIBIT A: LIST OF PROPERTIES

EXHIBIT B: TRIBAL ZONING AND LAND USE ORDINANCE

EXHIBIT C: TRIBAL RESOLUTION RE: AUTHORIZATION TO ENTER
MEMORANDUM OF UNDERSTANDING AND AUTHORIZING LIMITED
WAIVER OF SOVEREIGN IMMUNITY

Exhibit A

Parcel Description: "Martin Ranch" APN 115-020-28 Approximately 203.50 acres
more or less more fully described in Exhibit 1 hereto.

Parcel Description: "Stary Ranch" APN 112-020-68 Approximately 105.58 acres
more or less more fully described in Exhibit 2 hereto.

Parcel Description: "Stary Ranch" APN 112-060-69 Approximately 73.41 acres
more or less more fully described in Exhibit 3 hereto.

EXHIBIT A-1

DESCRIPTION

That real property situated in the County of Del Norte, State of California, described as follows:

PARCEL ONE

That portion of Section 35, Township 16 North, Range 1 West, Humboldt Meridian, described as follows:

PARCEL 2 as shown on the Parcel Map filed in the office of the County Recorder of Del Norte County, California on December 28, 1979 in Book 4 of Parcel Maps, page 75.

EXCEPT therefrom those portions thereof conveyed to the County of Del Norte, by deeds recorded October 18, 1979 in Book 237, Official Records, page 609, and May 19, 1986 in Book 310, Official Records, page 444.

PARCEL TWO

A 30-foot wide easement for road and utility purposes lying 30 feet westerly of and adjacent to the following described line:

BEGINNING at a point on the west line of Parcel 3 of the land conveyed to Del Norte County by **OWEN W. BAUER** by deed dated August 31, 1979, said point being North 185.0 feet from the most southwesterly corner of said Parcel 3, and running;

thence northerly along the westerly lines of Parcels 3 and 2 of the land conveyed to the County of Del Norte by **OWEN W. BAUER** to the south line of Parcel 1 as said parcel is shown on the parcel map filed for **OWEN W. BAUER** on December 28, 1979 in Book 4 of Parcel Maps, pages 75 through 78, in the office of the County Recorder of Del Norte County, California.

PARCEL THREE

An easement for water removal purposes on the following described parcel of land.

BEGINNING at a point S 32 degrees 00 minutes 20 seconds W (equals S 30 degrees 36 minutes 09 seconds W true meridian) a distance of 1607.35 feet from the northeast corner of Section 34, Township 16 North, Range 1 West, Humboldt Meridian, and running:

(PARCEL THREE continued on the next page)

(PARCEL THREE continued)

- (1) Thence South 60 degrees East, 45.21 feet;
- (2) Thence South 30 degrees West, 70.00 feet;
- (3) Thence North 60 degrees West, 150.00 feet;
- (4) Thence North 30 degrees East, 70.00 feet;
- (5) Thence South 60 degrees East, 104.79 feet to the point of beginning.

The bearings and distances contained in this easement description are based upon the California Coordinate System, Zone 1, Multiply distances by 0.9999742 to obtain ground level distances.

PARCEL FOUR

An easement for water pipe lines, said easement to be 20.0 feet in width, lying 10.0 feet on each side of the following described centerline:

BEGINNING at a point S 32 degrees 00 minutes 20 seconds W (equals S 30 degrees 36 minutes 09 seconds W true meridian) a distance of 1607.35 feet from the northeast corner of Section 34, Township 16 North, Range 1 West, Humboldt Meridian, and running:

- (1) Thence South 76 degrees 39 minutes 35 seconds East, 153.58 feet;
- (2) Thence South 76 degrees 46 minutes 42 seconds East, 206.05 feet;
- (3) Thence South 72 degrees 25 minutes 39 seconds East, 153.79 feet;
- (4) Thence South 81 degrees 07 minutes 49 seconds East, 162.47 feet;
- (5) Thence North 84 degrees 03 minutes 26 seconds East, 158.59 feet;
- (6) Thence North 36 degrees 54 minutes 36 seconds East, 75 feet, more or less, to Parcel "2" as said parcel is shown on the parcel map filed for OWEN W. BAUER on December 28, 1979 in Book 4 of Parcel Maps, pages 75 through 78 inclusive, in the office of the County Recorder of Del Norte County, California.

The sidelines of this easement shall coincide with the boundary of the land described in Easement "B" hereinabove described on the west and Parcel 2 of said Bauer map on the east.

The bearings and distances contained in this easement description are based upon the California Coordinate System, Zone 1, Multiply distances by 0.9999742 to obtain ground level distances.

APN: 115-020-28

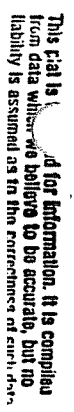


EXHIBIT A-2

DESCRIPTION

That real property situated in the County of Del Norte, State of California, described as follows:

Those portions of Section 23, Township 16 North, Range 1 West, Humboldt Meridian, described as follows:

PARCEL 1 and the Remainder Parcel as shown on the parcel map filed in the office of the County Recorder of Del Norte County, California on June 6, 1989 in Book 6 of Parcel Maps, page 107.

APN: 112-020-68
112-020-69

Book 112

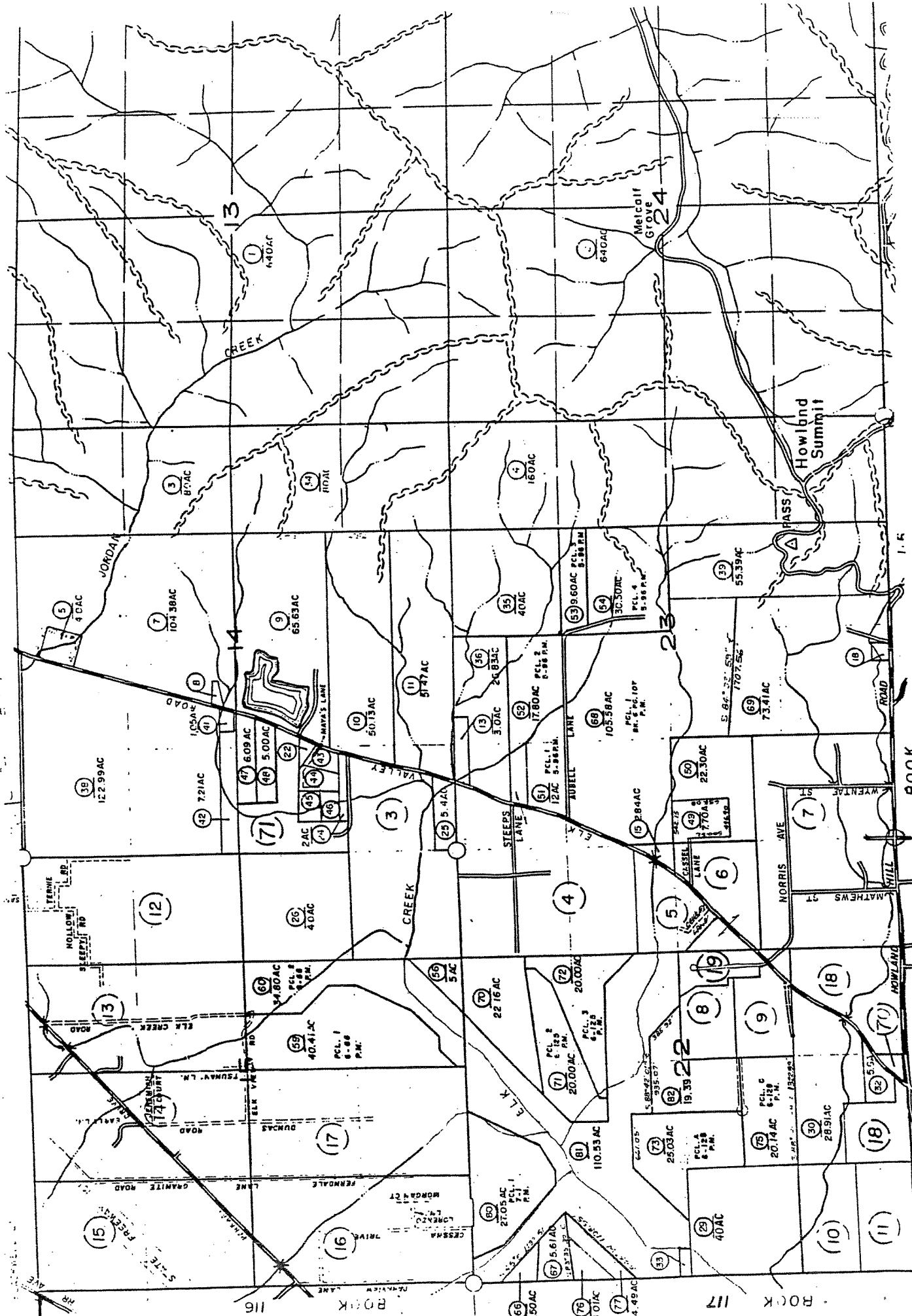


EXHIBIT A-3

DESCRIPTION

That real property situated in the County of Del Norte, State of California, described as follows:

Those portions of Section 23, Township 16 North, Range 1 West, Humboldt Meridian, described as follows:

PARCEL 1 and the Remainder Parcel as shown on the parcel map filed in the office of the County Recorder of Del Norte County, California on June 6, 1989 in Book 6 of Parcel Maps, page 107.

APN: 112-020-68
112-020-69

for assessor at only

Book 110

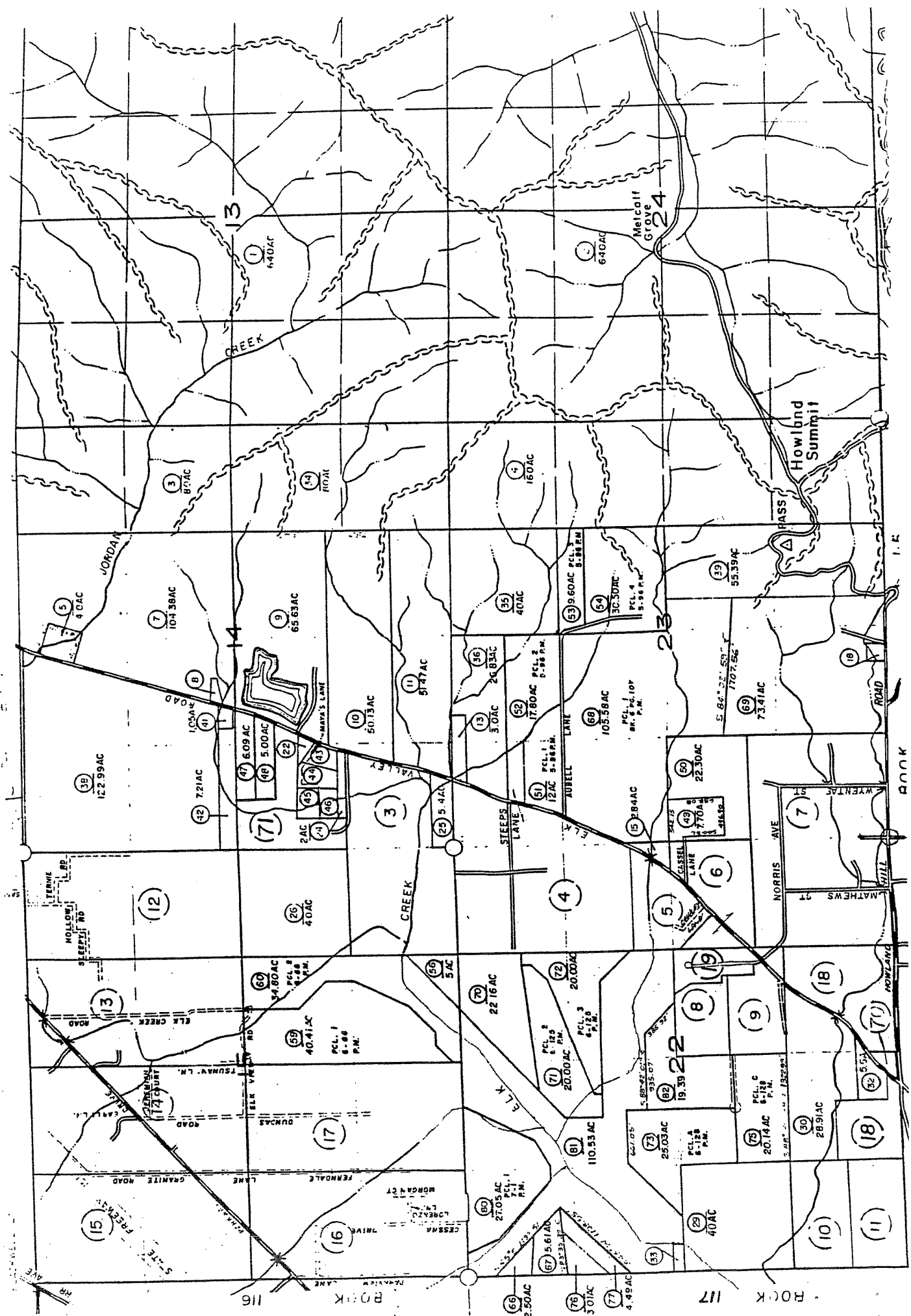


Exhibit B

TRIBAL ZONING AND LAND USE ORDINANCE

Exhibit C

RESOLUTION NO.____

Tribal Resolution of the Elk Valley Rancheria

Authorization to Enter Memorandum of Understanding and Limited Waiver of Sovereign Immunity

WHEREAS: the Elk Valley Rancheria (hereinafter the "Tribe") is a federally recognized Indian tribe; and

WHEREAS: the Elk Valley Rancheria adopted a Tribal Constitution which was approved by the Assistant Secretary of Indian Affairs on December 27, 1994; and

WHEREAS: the Tribal Council is the governing body of the Tribe pursuant to the Tribal Constitution; and

WHEREAS: the Tribe Council has determined that it is in the Tribe's best interest to enter into an agreement, known as the Memorandum of Understanding, with the County of Del Norte, California, attached hereto as Exhibit A; and

WHEREAS: the Memorandum of Understanding provides, among other things, for cooperative actions between the Tribe and the County of Del Norte in conjunction with the anticipated development by the Tribe of a gaming facility to be operated in accordance with the provisions of the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. § 2701, *et seq.* ("IGRA");

WHEREAS: the Memorandum of Understanding concerns a wide range of issues of concern to the Tribe and the County of Del Norte, including land use, law enforcement and fire protection and related jurisdiction over the Tribe's lands, and compliance with enumerated standards for building construction and design, all of which are important to both parties; and

WHEREAS: the Memorandum of Understanding provides for formal County of Del Norte support for the Tribe's application to have certain lands within the county taken into trust for gaming purposes by the Secretary of the Interior in accordance with IGRA;

NOW THEREFORE BE IT RESOLVED that the Tribal Council hereby authorizes and directs the Tribal Council Chairperson or Vice-Chairperson, as appropriate, to execute and deliver the Memorandum of Understanding on behalf of the Tribe in substantially the form as provided in Exhibit A to this Resolution and further authorizes the Chairperson or Vice-Chairperson to make such changes to the Memorandum of Understanding prior to execution and delivery of the Memorandum of Understanding as the Chairperson or Vice-Chairperson determine to be appropriate with the advice of counsel to the Tribe; and

BE IT FURTHER RESOLVED that the Chairperson or Vice-Chairperson is authorized to execute and deliver on behalf of the Tribe such additional instruments and certifications as may be necessary and appropriate in order to implement this Resolution, the Chairperson's or Vice-Chairperson's, as appropriate, execution and delivery of the Memorandum of Understanding or additional instrument or certification being conclusive evidence of his approval thereof in accordance with this Resolution; and,

BE IT FINALLY RESOLVED that by this Resolution and upon execution of the Memorandum of Understanding the Tribe waives on a limited basis its sovereign immunity in favor of the County of Del Norte in conjunction with and to the extent provided in the Memorandum of Understanding; that the Tribal Council specifically consents to the enforcement of the terms of the Memorandum of Understanding by the County of Del Norte in accordance with the provisions of, and subject in all cases to, the limitations contained in the Memorandum of Understanding upon adoption by the County of Del Norte of the Memorandum of Understanding; and that the Tribal Council specifically limits this limited waiver of sovereign immunity to matters arising under and in connection with the Memorandum of Understanding, and for no other purpose.

CERTIFICATION

The foregoing resolution was adopted by a vote of _____ for, and _____ against and _____ abstentions and ___ absent, at a duly called meeting of the Tribal Council, at which a quorum was present, on this 23rd day of January, 2002.

Dale A. Miller, Tribal Council Chairman

Date of Approval

ATTEST:

Donna Townsend, Tribal Council Secretary

Date of Approval

ORDINANCE NO. 01-08

AN ORDINANCE OF THE TRIBAL COUNCIL FOR THE ELK VALLEY
RANCHERIA ADOPTING ZONING AND LAND USE REGULATIONS FOR
THE ELK VALLEY INDIAN RANCHERIA

The Tribal Council ("Council") for the Elk Valley Rancheria ("Tribe") does hereby ordain as follows:

Section 1. Declaration and Findings. The Council hereby finds and declares that:

1. It is necessary to prepare and enact a comprehensive zoning and land use ordinance regulating the use and development of tribal lands within the boundaries of the Elk Valley Indian Rancheria ("Rancheria" or "Reservation") and all lands owned by the United States of America in trust for the Tribe outside the boundaries of the Rancheria.

2. Unless the Council enacts a comprehensive ordinance providing for uniform use, and development of trust lands within and outside the Rancheria, uncontrolled development will take place on an ad hoc basis that will be adverse to the political and economic interests of the Tribe and its individual members.

3. The enactment of this ordinance will promote and protect the public health, safety, morals, comfort, convenience and general welfare of the Tribe and its members.

Section 2. Adoption of Zoning Ordinance. There is hereby adopted a new ordinance entitled Zoning and Land Use Ordinance which shall provide as follows:

ZONING AND LAND USE ORDINANCE

Chapters:

- 02 General Provisions
- 04 Definitions
- 06 Use Group Classifications
- 08 Zones Established, Boundaries, Zoning Map
- 10 Agricultural (A) Zone
- 12 Residential Estates (RE) Zone
- 14 Single-Family Residence (R1) Zone
- 16 Residential Medium-Density (R2) Zone
- 18 Multiple-Residence (R3) Zone

- 26 Limited Industrial (ML) Zone
- 28 Heavy Industrial (MH) Zone
- 29 Industrial Park (I-P) Zone
- 30 Public Facility (PF) Zone
- 32 Open Space (OS) Zone
- 34 Unclassified - Interim (U) Zone
- 36 Planned Unit Development Combining (-PD) Zone
- 38 Floodway Combining (-FW) Zone
- 40 Flood Plain Combining (-FP) Zone
- 42 Seismic Study Combining (-SS) Zone
- 44 Special Lot Size Combining (-B) Zone
- 46 Natural Hazard Combining (-H) Zone
- 48 Historical and Cultural Resources
- 50 Performance Standards
- 52 Off-Street Parking and Loading Regulations
- 54 Signs
- 56 Yard and Height Exceptions and Modifications
- 58 Fences and Hedges
- 60 Landscaping
- 62 Apartment Complex Regulations
- 64 Mobile Home Park Regulations
- 66 Supplemental Provisions
- 68 Adult Entertainment Regulations
- 70 Site Plan Review
- 72 Nonconforming Uses and Structures
- 74 Use Permits
- 76 Variances
- 78 Amendments
- 80 Fees, Charges and Expenses
- 82 Administration and Enforcement
- 84 Appeals to Council and Planning Commission

Chapter 02

GENERAL PROVISIONS

Sections:

- 02.010 Short title.
- 02.020 Application of ordinance.
- 02.030 Purpose.
- 02.040 Limitations on land use and structures.
- 02.050 Interpretation and findings.
- 02.060 Conflicting provisions.

02.010 Short title. This ordinance shall be known and cited as the "Elk Valley Rancheria Zoning Ordinance."

02.020 Application of ordinance. This ordinance shall apply to all trust lands including all assignments and leases of trust lands within and outside the Rancheria.

02.030 Purpose. The purpose of this ordinance is to protect the present character of the Rancheria, to insure clean air and water, open space and proper human environment, and to encourage and regulate the development of the Rancheria after it has been divided into zones and to promote and regulate the orderly and economic growth of the Rancheria and tribal trust lands.

02.040 Limitations on land use and structures. Except as otherwise provided in this ordinance:

A. No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designated or intended to be used for any purpose or in any manner other than is included among the uses listed in this ordinance as permitted in the zone in which such building, land or premises is located.

B. No building or part thereof or structure shall be erected, reconstructed or structurally altered to exceed in height the limit designated in this ordinance for the zone in which such building or structure is located, except as provided in Chapter 56.

C. No building or part thereof or structure shall be erected, nor shall any existing building be altered, enlarged or rebuilt or moved into any zone, nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard, building site area, and building location regulations designated in this ordinance for the zone in which such building or open space is located.

D. No yard or other spaces provided about any buildings for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for a building on any other building site unless specifically permitted elsewhere in this ordinance.

02.050 Interpretation and findings. By written findings, the planning commission of the Tribe may interpret any of the provisions of this ordinance and may determine what additional uses may be permitted with or without use permits in any zones because of similarity and compatibility with listed uses. The Tribal Council, on its own motion or upon receipt of an appeal from any such interpretation or determination, may confirm, reverse or modify the action of the commission taken pursuant to this section.

02.060 Conflicting provisions. Wherever conflict occurs between the provisions of this ordinance and any other ordinance of the Tribe, the stricter of any such provisions shall apply.

Chapter 04

DEFINITIONS

Sections:

- 04.010 Use of definitions.
- 04.020 Abutting.
- 04.030 Accessory use or structure.
- 04.040 Agent of owner.
- 04.050 Agriculture.
- 04.060 Alley or lane.
- 04.070 Alter.
- 04.080 Apartment.
- 04.090 Arts and crafts fair.
- 04.100 Automobile repair, major.
- 04.110 Automobile repair, minor.
- 04.120 Automobile sales area.
- 04.130 Automobile service station or gasoline service station.
- 04.140 Automobile wrecking.
- 04.150 Beginning of construction.
- 04.160 Boardinghouse or rooming house.
- 04.170 Building.
- 04.180 Building, height of.
- 04.190 Building, main.
- 04.200 Bus.
- 04.210 Camper.
- 04.220 Camper vehicle.
- 04.230 Carport.
- 04.240 Cessation of use.
- 04.250 Pow Wow, circus and/or carnival and special event.
- 04.260 Council.
- 04.270 Combining zone.
- 04.280 Commercial.
- 04.290 Commercial vehicle.
- 04.300 Commission, planning.
- 04.310 Community club.
- 04.320 Conditional use.
- 04.330 Condominium.
- 04.340 Construction yard.
- 04.350 Corporation yard; service yard.
- 04.360 Condominium development.
- 04.370 Convenience food store.
- 04.380 Court.
- 04.390 Director of planning.
- 04.400 Department store.
- 04.405 Development.
- 04.410 District.
- 04.420 Domestic pet.
- 04.430 Drive-in enterprise.
- 04.440 Drive-in eating place.
- 04.450 Driveway.
- 04.460 Dwelling.
- 04.470 Dwelling, single-family.
- 04.480 Dwelling, two-family or duplex.

04.490 Dwelling, multiple.
04.500 Dwelling unit.
04.510 Dwelling group.
04.520 Family.
04.530 Family day care home.
04.540 Fence.
04.550 Fence height.
04.560 Fence, open.
04.570 Finished appearance.
04.575 Flood Plain combine zone. (-FW).
04.580 Flood proof structure.
04.590 Floodgates.
04.600 Floodgates without velocity.
04.610 Floodway.
04.615 Floodway combining zone (-FW).
04.620 Floor area.
04.625 Gaming Facility.
04.630 Garage, private.
04.640 Garage, public.
04.650 General plan.
04.660 Guesthouse.
04.670 Hedge.
04.680 Historical resource.
04.690 Historical resource site.
04.700 Historical resource structure.
04.710 Home occupation.
04.720 Industrial park.
04.730 Intensity.
04.740 Kennel.
04.750 Landscaping.
04.760 Livestock.
04.770 Lot.
04.780 Lot area.
04.790 Lot, corner.
04.800 Lot, reversed corner.
04.810 Lot, through.
04.820 Lot coverage.
04.830 Lot depth.
04.840 Lot, interior.
04.850 Lot lines.
04.860 Lot line, front.
04.870 Lot line, rear.
04.880 Lot line, side.
04.890 Lot line, street.
04.900 Lot line, alley.
04.910 Lot width.
04.920 Lowest floor.
04.930 Manufactured home.
04.940 Mobile home.
04.950 Mobile home park.
04.960 Motel or motor hotel.
04.970 Motor home.
04.980 Motor truck.

- 04.990 Motor vehicle.
- 04.1000 Natural land slope.
- 04.1010 Nightclub.
- 04.1020 Nonconforming building.
- 04.1030 Nonconforming lot.
- 04.1040 Nonconforming use.
- 04.1050 Nursery.
- 04.1060 Nursery, agricultural.
- 04.1070 Nursery, commercial.
- 04.1080 Nursery school, children's nursery school, child day care service.
- 04.1090 Nursing home or convalescent hospital.
- 04.1095 One-hundred-year flood.
- 04.1100 Open space.
- 04.1110 Overlay district.
- 04.1120 Parking area, private.
- 04.1130 Parking area, public.
- 04.1140 Parking space.
- 04.1150 Patio structure.
- 04.1160 Lath-covered structure.
- 04.1170 Passenger vehicle.
- 04.1180 Performance standards.
- 04.1190 Plan line.
- 04.1200 Poultry farm.
- 04.1210 Premises.
- 04.1220 Principal permitted use.
- 04.1230 Private noncommercial use.
- 04.1240 Produce.
- 04.1250 Public use.
- 04.1260 Quarry.
- 04.1270 Quasi-public use.
- 04.1280 Recreation, commercial.
- 04.1290 Recreation, private, noncommercial.
- 04.1295 Rancheria.
- 04.1300 Resident.
- 04.1310 Roadside stand.
- 04.1320 Sales, wholesale.
- 04.1330 Salvage yard.
- 04.1340 Sanitarium.
- 04.1350 Seat.
- 04.1360 Shopping center.
- 04.1370 Site, building.
- 04.1380 Special flood hazard area.
- 04.1390 Special residential care facilities.
- 04.1400 Stable.
- 04.1410 Story.
- 04.1420 Story, first.
- 04.1430 Story, mezzanine.
- 04.1440 Street.
- 04.1450 Street frontage.
- 04.1460 Street improvement ordinance.
- 04.1470 Structural alterations.
- 04.1480 Structure.

04.1485 Subdivision.
04.1490 Subdivision ordinance.
04.1500 Swimming pool.
04.1510 Swimming pool, private.
04.1520 Swimming pool, public or semipublic.
04.1530 Temporary tract office..
04.1540 Townhouse.
04.1550 Trailer.
04.1560 Transient.
04.1570 Travel trailer.
04.1580 Tribe.
04.1590 Truck tractor.
04.1595 Trust lands.
04.1600 Usable open space.
04.1610 Use, allowed.
04.1620 Use, permitted.
04.1630 Vehicle.
04.1640 Wall, retaining.
04.1650 Yard, front.
04.1660 Yard, front, least depth.
04.1670 Yard, rear.
04.1680 Yard, rear, least depth.
04.1690 Yard, required.
04.1700 Yard, side.
04.1710 Yard, street side.
04.1720 Yard, side, least width.
04.1730 Zone.
04.1740 Zoning Administrator.
04.1750 Zoning permit.

04.010 Use of definitions. For the purpose of this ordinance, the words and phrases set forth in this chapter shall have the meanings respectively ascribed to them herein, and the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.

04.020 Abutting. "Abutting" means land having a common property line or district line or separated only by a private street, alley or easement.

04.030 Accessory use or structure. "Accessory use or structure" means a use or structure subordinate to or part of the principal use on the same lot and serving a purpose customarily incidental to the principal use.

04.040 Agent of owner. "Agent of owner" means any person who can show written proof that he is acting for the holder of a tribal land assignment or lease of tribal land.

04.050 Agriculture. "Agriculture" means the use of tribal land for agricultural purposes, including farming, dairying, pasturage, agriculture, apiaries, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary

accessory uses for packing, processing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities; and, provided further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

04.060 Alley or lane. "Alley" or "lane" means a public or private way, not more than thirty feet wide, affording only a secondary means of access to abutting property.

04.070 Alter. "Alter" means to change any of the supporting members of buildings, such as bearing walls, columns, beams or girders.

04.080 Apartment. "Apartment" means a room or suite of two or more rooms in a multiple dwelling occupied or suitable for occupancy as a residence for one family.

04.090 Arts and crafts fair. "Arts and crafts fair" means an organized exhibit and/or sale of art works and craft items such as macrame, knitted goods, stitchery, pottery, jewelry, paintings and other sales generally associated with these events.

04.100 Automobile repair, major. "Major automobile repair" means the repair or replacement of frames and bodies, including painting, of vehicles of all weights and sizes, and the repair or replacement of engines, transmissions, power trains and wheels of vehicles exceeding one and one-half ton capacity. This definition includes auto and truck paint shops, body and fender repair shops, and wrecked vehicle storage areas. When any of the above uses are an integral part of and connected with new motor-vehicle dealers, such uses shall be considered as an accessory use.

04.110 Automobile repair, minor. "Minor automobile repair" means the repair or replacement of all or portions of engines, transmissions, power trains and wheels of vehicles not exceeding one and one-half ton capacity. This definition includes auto transmission shops, brake and wheel shops, radiator repair shops, fuel and electrical repair shops, upholstery and muffler shops.

04.120 Automobile sales area. "Automobile sales area" means an open area, other than a street, used for the display, sale or rental of new or used passenger vehicles or other motor vehicles, such vehicles as mobile homes and trailers, and such recreational equipment as campers and boats, in operable condition and where no repair work is done, but not including the rental of motor homes, mobile homes, or pickup trucks with campers mounted thereon in the sales area.

04.130 Automobile service station or gasoline service station. "Automobile service station" or "gasoline service station"

means a retail place of business engaged in supplying goods and services essential to the normal operation of automobiles, such as: dispensing of automotive fuel and motor oil; vehicle washing and lubricating services; the sale and servicing of tires, batteries, replacement items and other automotive accessories; and minor automotive repair. This definition shall not be deemed to include such things as body or fender work, painting or major automobile repairs, sales of nursery products, or coupon redemption for or sales of merchandise not accessory to a motor vehicle. Gasoline service stations may also provide a towing service limited to no more than two trucks, or equipment rental, subject to conditions of approval by the Commission or Council. When a conditional use permit shall have been granted to authorize an automobile service station or gasoline service station on a lot, the only use permitted thereon shall be the supplying of those goods and services described in the first and third sentences of this section, unless such conditional use permit expressly authorizes other uses. Permitted uses otherwise allowed in the zoning district in which a service station is located are not allowed in conjunction with a service station unless specifically authorized by a conditional use permit.

04.140 Automobile wrecking. "Automobile wrecking" means the dismantling or disassembling of used motor vehicles or trailers; the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts; and the towing of such vehicles or parts in connection with such activity.

04.150 Beginning of construction. "Beginning of construction" means the incorporation of labor and material within the foundation of the building or buildings.

04.160 Boardinghouse or rooming house. "Boardinghouse" or "rooming house" means a dwelling or part thereof where meals and/or lodging are provided, for compensation.

04.170 Building. "Building" means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more walls extending from the ground up, each part is deemed a separate building, except as regards a minimum yard side requirements as hereinafter provided in this ordinance.

04.180 Building, height of. "Height of building" means the vertical distance from the average contact ground level at the front wall of the building, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

04.190 Building, main. "Main building" means a building in which is conducted the principal use of the building site on

which it is situated. In any residential district any dwelling shall be deemed to be a main building on the building site on which the same is located.

04.200 Bus. "Bus" means any motor vehicle, other than a motor-truck or truck tractor, designed for carrying more than ten persons including the driver and used for the transportation of passengers. The term "bus" has the same meaning as the term "bus" is defined in the California Vehicle Code.

04.210 Camper. "Camper" means a shelter designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes. The term "camper" has the same meaning as the term "camper" is defined in the California Vehicle Code.

04.220 Camper vehicle. "Camper vehicle" means a motor vehicle, such as pickup truck, to which a camper is temporarily attached.

04.230 Carport. "Carport" means a detached or attached structure with a covered roof containing one or more parking spaces and open on one or more sides. A carport located upon a lot developed with a residential dwelling or dwellings serves a similar use as a private garage.

04.240 Cessation of use. As used in this ordinance, a use shall be deemed to have ceased when it has discontinued either temporarily or permanently, whether with the intent to abandon such use or not or in the case of a lease or assignment when the lease or assignment expires or is otherwise terminated.

04.250 Pow Wow, circus and/or carnival and special event. "Pow Wow" and/or "circus" and/or "carnival" and "special event" means a temporary, organized, outdoor program of entertainment or exhibition, such as traditional Indian drumming, singing and dancing, a fair, gymkhana, flea market, rodeo or similar use, where activities include such things as rides, exhibits, food service, sales or small-scale games.

04.260 Council. "Council" means the Tribal Council of the Elk Valley Rancheria or Tribe.

04.270 Combining zone. "Combining zone" means a zone within which certain regulations and requirements apply in addition to, and are combined with, regulations and requirements of another zone.

04.280 Commercial. "Commercial" means any activity on or use of land which involves the buying, selling, processing or improving of things not produced on the land and having financial gain as the primary aim of the activity or use, whether or not such activity or use is for hire or on account of the buyer,

seller, processor or improver.

04.290 Commercial vehicle. "Commercial vehicle" means a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation or profit, or designed, used or maintained primarily for the transportation of property. The term "commercial vehicle" does not include a motor vehicle originally designed, or permanently altered, and equipped for human habitation, or to which a camper has been permanently attached. The term "commercial vehicle" has the same meaning as the term "commercial vehicle" is defined in the California Vehicle Code.

04.300 Commission, planning. "Commission" means the planning commission of the Tribe.

04.310 Community club. "Community club" means buildings and grounds used for and operated by a nonprofit organization whose membership is open to any resident of the Rancheria, provided that the primary objectives of the organization are the improvement of the Rancheria or the Tribe and its social welfare and recreation.

04.320 Conditional use. "Conditional use" means a use of land for which a conditional use permit is required, pursuant to Chapter 74 of this ordinance.

04.330 Condominium. "Condominium" means individual ownership of a dwelling unit within a multiple-unit structure, exclusive of the land underlying said structure.

04.340 Construction yard. "Construction yard" means an area on or immediately adjacent to a major construction or demolition site used on a temporary basis for the parking and storage or equipment used in the project, and the storage and preparation of materials and other items used in the project. Such yard may include construction offices and such shops as are necessary for work on the immediate project.

04.350 Corporation yard; service yard. "Corporation yard" or "service yard" means buildings and premises, including offices, used by any person or by the Tribe for the storage, maintenance, repair and processing of equipment, materials and other items involved in construction or maintenance of physical facilities having permanently fixed locations, or in the operation of a fleet of rolling stock.

04.360 Condominium development. "Condominium development" means a structure and appurtenant premises divided in ownership by the existence of condominiums as now or hereafter defined in Section 783 of the California Civil Code, and shall include instances where ownership is so divided following prior single ownership of the entire structure and premises, as well as new

structures so divided in ownership.

04.370 Convenience food store. "Convenience food store" means a grocery store limited to two thousand five hundred square feet in total floor area and which carries a limited inventory.

04.380 Court. "Court" means an open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

04.390 Director of planning. "Director of planning" means the director of planning of the Tribe.

04.400 Department store. "Department store" means a store or group of shops under unified management, selling a variety of merchandise groups normally including clothing, appliances, hardware and furniture.

04.405 Development. "Development" means any manmade change to improved or unimproved trust land, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

04.410 District. "District" means a zone.

04.420 Domestic pet. "Domestic pet" means any of the various animals customarily kept as household pets (except exotic animals).

04.430 Drive-in enterprise. "Drive-in enterprise" means a business, activity or other use of land consisting of sales or service activity predominantly rendered to patrons who normally receive the products or utilize the services at least in part while in automobiles upon the premises. This definition includes, inter alia, automobile service stations, automotive car washes and drive-in restaurants.

04.440 Drive-in eating place. A. "Drive-in eating place" means an eating place:

1. Which has less than fifty percent of the floor area of the total structure devoted to indoor seating, and which serves food and/or drink from throw-away plates, wrappings or cups; or

2. Which serves food from a pass-through opening to vehicles; or

3. Which serves food to parked vehicles.

B. Establishments selling prepared food for exclusive consumption off the premises shall not be considered as drive-in eating places on the basis of seating, but may be considered as

drive-in eating places on the basis of a pass-through opening or service to parked vehicles.

04.450 Driveway. "Driveway" means a permanently surfaced area on a lot designed and required to provide direct access for vehicles between a street and a private garage, carport or other permitted parking space, or parking area or loading area.

04.460 Dwelling. "Dwelling" means any building or portion thereof, designated or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach.

04.470 Dwelling, single-family. "Single-family dwelling" means a dwelling designed to contain a single dwelling unit.

04.480 Dwelling, two-family or duplex. "Two-family dwelling" or "duplex dwelling" means a dwelling designed to contain two dwelling units.

04.490 Dwelling, multiple. "Multiple dwelling" means a dwelling designed to contain three or more dwelling units, including apartments, condominiums, attached townhouses and similar dwellings, but excluding motels, hotels, boardinghouses, lodging houses, fraternities, and similar dwellings.

04.500 Dwelling unit. "Dwelling unit" means one room, or a suite of two or more rooms, designed for or used by one family for living and sleeping purposes and having only one kitchen or kitchenette.

04.510 Dwelling group. "Dwelling group" means a group of two or more dwellings, either detached or attached, located on a parcel of land in one ownership and having any yard or court in common.

04.520 Family. "Family" means:

- A. A person living alone in a dwelling unit; or
- B. Two or more persons related by blood, adoption or marriage, living together as a single housekeeping unit in a dwelling unit; or
- C. Two or more unrelated persons living together as a single housekeeping unit in a dwelling unit.

04.530 Family day care home. "Family day care home" means a home which regularly provides care, protection, and supervision of twelve or fewer children, in the provider's own home, for periods of less than twenty-four hours per day.

04.540 Fence. "Fence" means a structure made of wire,

wood, metal, masonry or other material, used as a screen or enclosure for a field, yard or lot.

04.550 Fence height. "Fence height" means the difference in elevation between the top of a fence or hedge, and the ground surface at the lowest point of the fence or hedge. Where a fence is erected atop or within ten feet of a retaining wall on the property line, or on the same lot, the height of the fence shall include the retaining wall.

04.560 Fence, open. "Open fence" means a fence constructed with material consisting of woven wire or other metals which restricts movement but not visibility.

04.570 Finished appearance. "Finished appearance," as applied to fencing, generally means the shielding of posts and rails by the application of a facing. Fencing in which such posts and rails are made a design feature of the fence, or fence which is so constructed that the posts and rails have the same appearance on both sides, shall be considered as having a "finished appearance" on both sides.

04.580 Flood Plain combine zone. "Flood Plain combine zone (-FP)" means an area which is defined in Chapter 40 which applies to the one-hundred-year Flood Plain area(s) which areas shall be delineated on the zoning map.

04.590 Flood proof structure. "Flood proof structure" means any structure which, in the opinion of the building official, is designed and constructed to resist flotation, destruction or major damage by floodgates.

04.600 Floodgates. "Floodgates" means a body of water resulting from an overflow of a river, channel, bay or drainage canal, or backwater due to inadequate downstream capacity which inundates the land.

04.610 Floodway. "Floodway" means the channel of a stream and those portions of the Flood Plain adjoining the channel that are required to carry and discharge the floodgate or flood flows of any river or stream, including but not limited to flood flows associated with the regulatory one-hundred-year flood. Such area shall be delineated on the zoning map.

04.615 Floodway combining zone (-FW). "Floodway combining zone (-FW)" means an area as defined in Chapter 38 which applies to the Floodway area(s) delineated on the zoning maps.

04.620 Floor area. "Floor area" means the sum of the areas of the several floors of structure(s), as measured by the exterior faces of the walls, less any area within the structure(s) devoted to parking, vehicular atriums or enclosed malls and similar areas.

04.625 Gaming Facility. "Gaming Facility" or "Casino" means any structure or portion thereof used to conduct any Class II or III gaming activities as defined by the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq.

04.630 Garage, private. "Private garage" means an attached or detached accessory building located upon a lot developed with a residential dwelling or dwellings (or a portion of main residential building), used by the occupants residents upon the premises principally for the storage of passenger vehicles, and other vehicles and equipment permitted to be located upon the lot.

04.640 Garage, public. "Public garage" means a structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of motor vehicles or other vehicles; except that a structure or part thereof used only for storage (as in the case of a public parking area) or display (as in the case of an automobiles sales area) of motor vehicles, but not for transients, and at which fuels and oils are not sold and such motor vehicles are not equipped, repaired or hired, shall not be deemed to be a public garage.

04.650 General plan. "General plan" means the General Plan of the Rancheria.

04.660 Guesthouse. "Guesthouse" means an attached or detached living quarters without kitchen facilities.

04.670 Hedge. "Hedge" means a barrier formed by bushes, shrubs or trees growing close together in a line with interwoven branches.

04.680 Historical or cultural resource. "Historical or cultural resource" means any building, structure, pictograph, artifacts, burial grounds, tree, plant life or site that either serves as a reminder of past eras, events or persons important in the history of the Tribe, or represents a significant example of an architectural style of the past.

04.690 Historical or cultural resource site. "Historical or cultural resource site" means any place constituting a historical or cultural resource not otherwise defined as a historical resource structure. Such term includes, but is not limited to, creeks, sloughs, landings, ponds, lagoons, watercourses, canyons, historical communities, cemeteries and burial grounds, mountain peaks and passes, gravel pits, locations of previously existing buildings and structures, and locations of archaeological, religious or cultural significance to the Tribe.

04.700 Historical resource structure. "Historical resource structure" means any building, structure, tree of plant life constituting a historical resource.

04.710 Home occupation. "Home occupation" means a use customarily carried on in a dwelling by a resident thereof, which is merely incidental to the residential use of the dwelling and subject to criteria as provided elsewhere in this ordinance.

04.720 Industrial Park. "Industrial park" means the combination of contiguous lots specifically planned for industrial uses, having continuity of design and function and uniform or integrated standards of development established by contract, covenant or lease restriction.

04.730 Intensity. "Intensity" means the degree or level of concentration of or activity to which land is used. In determining the degree of intensity, such factors as number of employees, number of off-street parking spaces requires, and number of tenants shall be considered.

04.740 Kennel. "Kennel" means a building or portion thereof, or other enclosure used to confine, feed, exercise, show or provide shelter for more than five cats or dogs, ten weeks of age or older. Veterinarians' offices are specifically excluded.

04.750 Landscaping. "Landscaping" means the planting and maintenance of trees, shrubs, lawns and other evergreen ground cover or material, including inorganic accessory materials utilized to accent or compliment the vegetation.

04.760 Livestock. "Livestock" means domestic animals customarily kept, used, maintained or raised on a farm or ranch for commercial purposes, including but not limited to horses, ponies, burros, mules, donkeys, cows, steers, sheep, goats, chickens, ducks, geese, swine and rabbits.

04.770 Lot. "Lot" means a piece or parcel of trust land assigned or leased as a single unit occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this ordinance and having frontage on and access to an approved and accepted tribal, county or Bureau of Indian Affairs maintained street which meets the standards of width and improvements, as specified in the regulations of the Tribe contained in or adopted pursuant to any subdivision and/or street improvement ordinance adopted by the Tribe, as to the section and the frontage of the lot involved, or having frontage on and access to an approved private street.

04.780 Lot area. "Lot area" means the net site area of a lot, expressed in terms of acres or square feet, exclusive of any public street easements and exclusive of that percentage of the total area of any other public easements or private easements which is in excess of fifteen percent of the net site area of the lot, exclusive of any such public street easements, which net

site area as thus limited can be legally occupied by a principal building or a group of such buildings and accessory buildings, or can be utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this ordinance.

04.790 Lot, corner. "Corner lot" means a lot abutting upon two streets at their intersections, or abutting upon a curvature of a single street, where such streets or curvature form an interior angle of less than one hundred thirty-five degrees. The point of intersection of the street lot lines extended is the "corner." A corner lot may have more than one corner and may also abut upon one or more streets which do not form the corner or corners of the lot.

04.800 Lot, reversed corner. "Reversed corner lot" means a corner lot the rear of which abuts upon the side of another lot, whether or not across an alley.

04.810 Lot, through. "Through lot" means a lot which has two or more front lot lines which do not intersect to form a corner lot.

04.820 Lot coverage. "Lot coverage" means that portion of the lot area covered by a building.

04.830 Lot depth. "Depth of lot" means the horizontal distance between the front and the rear lot lines.

04.840 Lot, interior. "Interior lot" means a lot which has only one front lot line.

04.850 Lot lines. "Lot lines" means the property lines bounding the lot.

04.860 Lot line, front. "Front lot line" means any of the following:

- A. Each street lot line of an interior or through lot;
- B. Either one or the other of the two street lot lines forming a corner of a corner lot; and
- C. The shorter street frontage of a corner of a corner lot.

04.870 Lot line, rear. "Rear lot line" means any lot line other than a front or side lot line. A side lot line separating a lot from a street is called a side-street lot line. A side lot line separating a lot from another lot or lots is called an interior-side lot line.

04.880 Lot line, side. "Side lot line" means any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side-street lot line. A side lot

line separating a lot from another lot or lots is called an interior-side lot line.

04.890 Lot line, street. "Street lot line" means a lot line separating the lot from a street.

04.900 Lot line, alley. "Alley lot line" means a rear lot line separating the lot from an alley.

04.910 Lot width. "Lot width" means the width of the lot measured at right angles to its depth.

04.920 Lowest floor. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

04.930 Manufactured home. "Manufactured home" means a factory-built home to include a modular and mobile home certified by a state under the National Home Construction and Safety Standards Act of 1974.

04.940 Mobile home. "Mobile home" means a vehicle designed and equipped for human habitation, and for being drawn by motor vehicle. A mobile home is a type of "trailer" or "trailer coach" or "semi-trailer" as such terms are defined in the California Vehicle Code, and has the same meaning as "mobile home" as such term is defined in the California Health and Safety Code. (For the purpose of this ordinance, the terms "mobile home," "travel trailer" and "trailer," which are each separately defined terms in this ordinance, are mutually exclusive terms.)

04.950 Mobile home park. "Mobile home park" means any area or tract of land where one or more mobile home sites are rented or leased or held on rent or lease to accommodate mobile homes for human habitation. The term "mobile home park" has the same meaning as "mobile home park" as such term is defined in the California Health and Safety Code.

04.960 Motel or motor hotel. "Motel" or "motor hotel" means a group of buildings containing individual sleeping or living units, designed for use by automobile tourists, or transients, with garage attached or parking space conveniently located to each unit.

04.970 Motor home. "Motor home" means a motor vehicle originally designed, or permanently altered and equipped for human habitation, or to which a camper has been permanently attached. A motor vehicle to which a camper has been temporarily

attached is not a motor home. The term "motor home" includes within its meaning the terms "motor home," "house car," and "camp car" (with motor power), as such terms are used or defined in the California Vehicle Code or the California Health and Safety Code.

04.980 Motor truck. "Motor truck" means any motor vehicle designed, used or maintained primarily for the transportation of property. The term "motor truck" includes within its meaning the terms "motor truck" and "truck tractor" as such terms are defined in the California Vehicle Code, except as modified by the definition in this chapter of "passenger vehicle" to include certain motor vehicles as passenger vehicles which are otherwise motor trucks, or to include certain motor vehicles as motor trucks which are otherwise passenger vehicles.

04.990 Motor vehicle. "Motor vehicle" is a vehicle which is self-propelled. The term "motor vehicle" has the same meaning as the term "motor vehicle" is defined in the California Vehicle Code.

04.1000 Natural land slope. "Natural land slope" means the predominant slope (or slopes) in its natural condition, disregarding minor surface humps or hollows.

04.1010 Nightclub. "Nightclub" means a drinking place which includes an area in which patrons may dance, or which provides live entertainment, not including entertainment by a single instrumental musician.

04.1020 Nonconforming building. "Nonconforming building" means a building or structure or portion thereof which:

A. At the time of construction complied with the height requirements of the district in which it was located, and was sited on the lot on which it was constructed in compliance with the area and yard requirements of such district at that time; but

B. Does not now conform to the presently existing height regulations of the district where located; or

C. Is sited on the lot where it is situated in such a manner that there is a lack of conformity with the presently existing area or yard requirements of the district where located.

04.1030 Nonconforming lot. "Nonconforming lot" means a lot which, was lawful when created or when lawfully created or established, complied with the width and area requirements of the district where located, but which does not conform to the presently existing area or width regulations of the district where located (or which does not conform to the presently existing requirements of the subdivision ordinance governing lot standards).

04.1040 Nonconforming use. "Nonconforming use" means a use which, when commenced, was lawful or complied with use regula-

tions of the district in which such use was commenced, and which does not conform to the presently existing use regulations of the district where the use is being conducted or carried on. The term "non-conforming use" shall be applicable to use of buildings, structures, and land.

04.1050 Nursery. "Nursery" means an area where agricultural products are grown for transplanting, for use of stock for budding and grafting, or for sale on the premises.

04.1060 Nursery, agricultural. "Agricultural nursery" means a nursery at which items sold are limited to agricultural products grown on the premises.

04.1070 Nursery, commercial. "Commercial nursery" means an agricultural nursery selling products not grown on the premises (such as fertilizer, sprays, shears and garden hose), but which are associated with the care and maintenance of plants.

04.1080 Nursery school, children's nursery school, child day care service. "Nursery school, children's nursery school or child day care service" means an establishment for the part-time care and instruction, whether or not for compensation, of six or more children, other than those resident on the site.

04.1090 Nursing home or convalescent hospital. "Nursing home" or "convalescent hospital" means any place or institution which makes provisions for bed care, or for chronic or convalescent care for one or more persons, exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Institutions for the care of alcoholics, drug addicts, persons with mental diseases, and persons with communicable diseases, such as contagious tuberculosis, are not included within the meaning of "nursing home" or "convalescent hospital."

04.1095 One-hundred-year flood. "One-hundred-year flood" or "100-year-flood" means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the "base flood," which will be the term used throughout this ordinance.

04.1100 Open space. "Open space," for purposes of this ordinance, means an outdoor area created by artificial or natural design not otherwise occupied by buildings (open spaces may be integral with, but may not be totally covered by, building areas, except as otherwise specified by district regulations) or paved areas for vehicular circulation or parking.

04.1110 Overlay district. "Overlay district" means a district described by the zoning map within which, through imposition of a special designation, additional regulations and

requirements apply in addition to those of the district to which such designation is added.

04.1120 Parking area, private. "Private parking area" means an open area for the same uses as a private garage.

04.1130 Parking area, public. "Public parking area" means an open area, other than a street or other public way, used for the parking of automobiles and available to the public, whether for a fee, free, or as an accommodation for clients or customers.

04.1140 Parking space. "Parking space" means a permanently surfaced area of not less than one hundred eighty square feet, either within a structure or in the open, excluding driveways or access drives, for the parking of a vehicle.

04.1150 Patio structure. "Patio structure" means an attached or detached roofed accessory structure open on one or more sides, whose principal use shall be for outdoor living and recreation. For the purposes of this section, the open sides may be closed with insect screening or readily removable flexible plastic screening not more than twenty mills' thickness.

04.1160 Lath-covered structure. "Lath-covered structure" means an accessory structure with a uniformly open cover. A structure shall be deemed to have a uniformly open cover when the openings between the solid material of the lath cover are evenly spaced so as to make air and light passage possible over the entire structure.

04.1170 Passenger vehicle. A. "Passenger vehicle" means any motor vehicle, other than a motor truck, camper vehicle, or motor home, designed for carrying not more than ten persons including the driver, and used and maintained for the transportation of persons. The term "passenger vehicle" as such term is used herein, includes within its meaning "passenger vehicle" as such term is defined in the California Vehicle Code, including such vehicle design types of sedan, sports car, station wagon, wagon bus, and jeep-type automobile; provided, that the terms "motorcycle" and "motor-driven cycle," as such terms are defined in the Vehicle Code, are included within the meaning of "passenger vehicle" as such term is used in this ordinance. Provided further, that the following motor vehicles shall be deemed to be passenger vehicles for the purposes of this ordinance:

1. Any pickup truck, or motor truck of an exterior design type such as a sedan delivery truck (provided that any such pickup truck or sedan delivery truck does not have any camper attached or does not include any enclosure exceeding the height of the passenger vehicle), or panel truck, when such pickup truck or sedan delivery truck or

panel truck is used solely for personal purposes of the owner for the transportation of persons and is not used either for business or commercial purposes (other than for transportation to and from owner's place of business and work), or for the storage or transportation of property which is easily visible from the exterior of the vehicle;

2. Any motor vehicle of an exterior design type identical or substantially identical to a passenger vehicle of a conventional design type (including size) such as a wagon bus, notwithstanding that the interior of such vehicle has been designed, equipped or altered for human habitation in a manner similar to a "motor home" (and thus otherwise being subject to being defined as such), provided that the interior of such vehicle is not easily visible from the exterior as anything other than such a wagon bus or other passenger vehicle of conventional design type;

3. Any commercial vehicle which is not a motor vehicle of an exterior design type identical to a passenger vehicle of a conventional design type, notwithstanding that such motor vehicle is licensed as a "commercial vehicle."

B. The foregoing is subject to the following further provision: No motor vehicle which has attached or maintained on the exterior thereof any commercial or noncommercial sign shall be deemed a passenger vehicle for the purposes of this chapter, except for the minor and incidental identification of a business enterprise upon the front door of a passenger vehicle which is used by an occupant of a dwelling as the principal means of personal transportation to and from such occupant's place of business, and except for typical temporary bumper stickers and similar noncommercial signs. Any motor vehicle not meeting such conditions shall be deemed to be, whichever is most applicable, either:

1. A "motor truck" for the purposes of this chapter whether designed, used or maintained primarily for the carrying of passengers or for the transportation of property; or

2. A "commercial vehicle" for the purposes of this ordinance, whether or not such motor vehicle is of a type deemed to be or is not registered as a commercial vehicle under the California Vehicle Code.

04.1180 Performance standards. "Performance standards" means regulations for the control of "dangerous or objectionable elements," as defined in Chapter 50.

04.1190 Plan line. "Plan line" means an officially adopted line established to provide for future street widenings, con-

struction or realignment, delineating the area open or to be open, to public use from which the minimum front and/or side setback or yard distance of a building structure, or portion thereof, is measured. If no specific plan line is established, the plan line and the adjacent existing right-of-way of any abutting street or roadway, either public or private, shall be construed to be one and the same.

04.1200 Poultry farm. "Poultry farm" means any premises on which the primary use is the breeding, raising or maintaining of poultry for sale of eggs or poultry, or where the primary income from the premises is derived from the aforesaid occupation.

04.1210 Premises. "Premises" means one or more contiguous lots under a single or common assignment, lease or occupancy where the present or proposed uses on the property relate to each other by way of an integrated site layout and common vehicular circulation and parking areas.

04.1220 Principal permitted use. "Principal permitted use" means a use for which no conditional use permit is required, but which may be subject to site plan and architectural approval, planned unit development approval, or performance standards procedure, as specified in this ordinance.

04.1230 Private noncommercial use. "Private noncommercial use" means a use operated by a private nonprofit club or association such as fraternal associations, improvement associations, and similar groups; and such use having the purpose primarily of serving the members of the club or association, and including uses such as private golf courses, country clubs, swimming pools, riding clubs, private lodges, and the like.

04.1240 Produce. "Produce" means fruits, vegetables and other commodities which are derived from agricultural cultivation.

04.1250 Public use. "Public use" means a use operated exclusively by a public body, such use having the purpose of serving the public health, safety or general welfare, and including uses such as public schools, parks, playgrounds, hospitals, and administrative and service facilities.

04.1260 Quarry. "Quarry" means a use for obtaining, extracting or producing earth, rock, crushed stone, building stone, slate, limestone, gravel, sand, minerals or similar material products, except for grading or excavation.

04.1270 Quasi-public use. "Quasi-public use" means a use operated by a private nonprofit education, religious, recreational, charitable or medical institution, such use having the

purpose primarily of serving the general public, and including uses such as churches, private schools and universities, community, youth and senior citizen recreational facilities, private hospitals, and the like.

04.1280 Recreation, commercial. "Commercial recreation" means recreation facilities operated as a business and open to the general public for a fee.

04.1290 Recreation, private, noncommercial. "Private non-commercial recreation" means clubs or recreation facilities operated by a non-profit organization and open only to bona fide members of such nonprofit organization.

04.1295 Rancheria. "Rancheria" or "Reservation" means all lands within the boundaries of the Elk Valley Rancheria.

04.1300 Resident. "Resident" means a person who occupies a dwelling as a home on a permanent basis on the Rancheria and who has no other permanent place of abode.

04.1310 Roadside stand. "Roadside stand" means temporary structure used for the display and sale of produce grown by the operator of the stand.

04.1320 Sales, wholesale. "Wholesale sales" means the sale of goods for resale, or the sale of goods produced or processed from raw or primary materials on the premises, or the sale of construction materials which require bulk delivery of the product.

04.1330 Salvage yard. "Salvage yard" means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used lumberyards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations.

04.1340 Sanitarium. "Sanitarium" means any premises with fifteen or more sleeping rooms where persons are lodged and furnished with meals and nursing care.

04.1350 Seat. "Seat" means a chair, stool, bench or similar facility furnished for the accommodation of guests or patrons while receiving some kind of service; each twenty-four inches of bench shall be considered equal to one seat.

04.1360 Shopping Center. "Shopping center" means a group of not less than three commercial shops on the same premises contained within a building, or buildings, of forty thousand square feet or more, planned, developed and managed as a unit.

04.1380 Site, building. "Building site" means the ground area of a building or buildings, together with all open spaces required by this ordinance.

04.1385 Special flood hazard area (SFHA). "Special flood hazard area (SFHA)" means an area having special flood or flood-related erosion hazards, and shown on a Flood Boundary and Floodway Map or Flood Insurance Rate Map as Zone A, A1-30, AE, or A99.

04.1390 Special residential care facilities. "Special residential care facilities" means any tribal or state authorized, certified, or licensed family care home, foster home or group home serving six or fewer mentally disordered or otherwise handicapped persons, or dependent and neglected children, or the elderly, when such homes provide care on a twenty-four-hour-a-day basis.

04.1400 Stable. "Stable" means a building or portion thereof or other enclosure, not including pastures, used to confine, feed, exercise, show or provide shelter for horses, cows or other hooved animals, whether for private, public or commercial use. "Stable" includes but is not limited to stall, corral, paddock, barn, exercise area and arena, along with structures accessory thereto.

04.1410 Story. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

04.1420 Story, first. "First story" means the lowest story or the ground story of any building, the floor of which is not more than twelve inches below the average contact ground level at the exterior walls of the building; except that any basement or cellar used for residence purposes, other than for a janitor or caretaker or his family, shall be deemed the first story.

04.1430 Story, mezzanine. "Mezzanine story" means a story which covers one-third or less of area of the story directly underneath it. A mezzanine story shall be deemed a full story in case it covers more than one-third of the area of the story directly underneath the mezzanine story.

04.1440 Street. "Street" means a right-of-way maintained by the Tribe, County of Del Norte or Bureau of Indian Affairs which provides a means of access to abutting property, or

an approved private right-of-way which provides the sole means of access to a lot from a public right-of-way.

04.1450 Street frontage. "Street frontage" means:

- A. The existence of a street lot line; or
- B. The lineal foot measurement of a lot at a street lot line.

04.1460 Street improvement ordinance. "Street improvement ordinance" means an ordinance of the Tribe regarding the construction and improvement of street rights-of-way.

04.1470 Structural alterations. "Structural alterations" means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

04.1480 Structure. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, except benches, statuary, planter boxes less than thirty-six inches in height, fish ponds less than eighteen inches in depth, and wood fences seventy-two inches or under in height.

04.1485 Subdivision. "Subdivision" means the creation of a lot or parcel by lease, assignment or sale.

04.1490 Subdivision ordinance. "Subdivision ordinance" means the subdivision ordinance adopted by the Tribe.

04.1500 Swimming pool. "Swimming pool" means any constructed pool used for swimming or bathing, over eighteen inches in depth, or with a surface area exceeding two hundred fifty square feet.

04.1510 Swimming pool, private. "Private swimming pool" means all swimming pools which are used or intended to be used in connection with a single-family residence, and are available only to the family of the householder and his/her private guests.

04.1520 Swimming pool, public or semipublic. "Public or semipublic swimming pool" means any swimming pool other than a private swimming pool.

04.1530 Temporary tract office. "Temporary tract office" means an office facility used on a temporary basis only, located on or immediately adjacent to a tract or subdivision with new development thereon, for sales and administrative activity associated with the development.

04.1540 Townhouse. "Townhouse" means a dwelling unit which is a portion of a multiple dwelling and has one or more common walls with other dwelling units, where such unit is the sole dwelling unit on a separate lot, and where ownership of such dwelling unit includes an interest in common areas other than the lot upon which the dwelling unit is situated.

04.1550 Trailer. "Trailer" means a vehicle designed for carrying persons or property on its own structure and for being drawn by a motor vehicle. The term "trailer" includes within its meaning the terms "trailer," "trailer coach," "semi-trailer," "utility trailer," as such terms are used or defined in the California Vehicle Code or California Health and Safety Code. For the purposes of this ordinance, the terms "trailer," "travel trailer," and "mobile home," which are each separately defined terms in this ordinance, are mutually exclusive terms.

04.1560 Transient. "Transient" means a person whose period of residence at the place where he/she is staying does not exceed one hundred twenty days.

04.1570 Travel trailer. "Travel trailer" means a vehicle designed or used for human habitation and which may be moved upon a Tribal, County or Bureau of Indian affairs maintained highway without a special permit or chauffeur's license, or both, without violating any provision of the California Vehicle Code. The term "travel trailer" includes within its meaning the terms "travel trailer," "camp trailer," "tent trailer," "camp car," without motive power, as such terms are used or defined in the California Vehicle Code or the California Health and Safety Code. For the purposes of this ordinance, the terms "travel trailer," "trailer," and "mobile home," which are each separately defined terms in this ordinance, are mutually exclusive terms.

04.1580 Tribe. "Tribe" means the Elk Valley Rancheria.

04.1590 Truck tractor. "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than as part of the weight of the vehicle and load as drawn. The term "truck tractor" has the same meaning as the term "truck tractor" is defined in the California Vehicle Code.

04.1595 Trust lands. "Tribal lands" or "Trust lands" means all lands owned by the United States of America in trust for the Tribe regardless of its location.

04.1600 Usable open space. "Usable open space" means any open space, the smallest dimension of which is at least seven feet and which is not used as storage or for movement of motor vehicles, except that yards abutting a public street which are not adequately screened for privacy shall not qualify as usable open space. Balconies, porches or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas. At least thirty percent of required open space shall be contiguous to and provide for private usage of the individual dwelling unit.

04.1610 Use, allowed. "Allowed use" means a use that is either permitted or conditional within a zoning district.

04.1620 Use, permitted. "Permitted use" means a use for which no conditional use permit is required but which may be subject to other approval proceedings as specified in this ordinance.

04.1630 Vehicle. "Vehicle" means a device by which any person or property may be propelled, moved or drawn, excepting a device moved by human power (such as a bicycle) or used exclusively upon stationary road or tracks. The term "vehicle" has the same meaning as the term "vehicle" as such term is defined in the California Vehicle Code except that the term "vehicle," as used in this ordinance, is not limited to a device which may be propelled, moved, or drawn upon a highway.

04.1640 Wall, retaining. "Retaining wall" means a structure constructed to sustain a bank of earth liable to a landslide or sloughing.

04.1650 Yard, front. "Front yard" means an open space extending the full width of the lot, between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this ordinance.

04.1660 Yard, front, least depth. "Front yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the front lot line. Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way line of such street, as adopted by the Council, differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as adopted; or shall be measured from any officially adopted setback lines.

04.1670 Yard, rear. "Rear yard" means an open space between a building and a rear lot line, extending the full width of

the lot (except for any portion thereof which overlaps a street side yard), unoccupied and unobstructed from the ground upward, except as specified elsewhere in this ordinance.

04.1680 Yard, rear, least depth. "Rear yard least depth" means the shortest distance, measured horizontally between any part of a building, and the rear lot line.

04.1690 Yard, required. "Required yard" means an open space or portion thereof constituting a front yard, rear yard, or side yard on a lot which complies with the minimum yard requirements of the district in which the lot is situated.

04.1700 Yard, side. "Side yard" means an open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this ordinance.

04.1710 Yard, street side. "Street side yard" means an open space extending from the front yard to the rear lot line, between a building and the nearest side street lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this ordinance.

04.1720 Yard, side, least width. "Side yard least width" means the shortest distance, measured horizontally between any part of the building, other than such parts hereinafter excepted, and the nearest side lot line. Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street; provided, however that if the officially adopted location of the right-of-way line of such street differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street, as adopted.

04.1730 Zone. "Zone" means a portion of the territory of the Rancheria within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this ordinance.

04.1740 Zoning administrator. "Zoning administrator" means the person appointed by the Chairperson of the Council and approved by the Council as zoning administrator of the Tribe for the Rancheria.

04.1750 Zoning permit. "Zoning permit" means a document issued by the building inspector, certifying that proposed buildings, structures or uses are consistent with the terms of this ordinance.

Chapter 06

USE GROUP CLASSIFICATIONS

Sections:

- 06.010 Purpose.
- 06.020 Listing of use groups.
- 06.030 Classification of proposed uses.

06.010 Purpose. The purpose of this chapter is to classify land uses into specific categories known as "use groups" on the basis of common functional, product and compatibility characteristics.

06.020 Listing of use groups. The following use groups are hereby established:

Group 2 Residential.

2a Single-family Residences. Non transient residential occupancy of a single-family living unit.

Examples: Single-family house;
Single-family manufactured house on permanent foundation.

2b Two-family Residences. Nontransient residential occupancy of a building or structure containing two single-family dwelling units.

Examples: Duplex.

2c Group Residential. Nontransient residential occupancy of five or more dwelling units.

Examples: Triplex;
Fourplex;
Apartment house;
Rooming or boardinghouse;
Fraternity or sorority house;
Dormitory;
Residence club;
Housing cooperative.

2d Mobile Home Parks. Nontransient residential occupancy of two or more mobile homes within a mobile home park.

Group 4 Visitor Accommodation.

4a Campgrounds. Establishments primarily engaged in providing overnight, transient or short-term sites for trailers, campers or tents.

Examples: Campground;
Campsite;
Trailer park;
Recreational vehicle park.

4b Tourist Accommodations. Establishments primarily engaged in providing overnight, transient or short-term lodging for tourists and travelers.

Examples: Motel;
Hotel;
Inn;
Auto court;
Tourist cabin or court.

4c Bed and Breakfast Facilities.

Examples: Bed and breakfast facility serving tourists and visitors may be provided in existing residential structures of historical or architectural significance.

Group 6 Business and Professional Offices.

6a Administrative and Professional Offices. Offices of firms or organizations which provide professional, administrative, executive or management services.

Examples: Law office;
Accountant's office;
Engineering office;
Architect's office.

6b Business Services. Establishments primarily engaged in the provision of services of a clerical, employment, protective, or minor processing nature.

Examples: Blueprint services;
Bookkeeping services;
Computer services;
Employment agencies;
Job counseling services;
Secretarial services;
Telephone answering services;
Travel agencies.

6c Financial, Insurance and Real Estate Services. Establishments primarily engaged in the provision of services of financial, insurance, real estate, or securities brokerage services.

Examples: Bank;
Insurance office;
Real estate office;
Stockbroker's office;
Savings and loan office;
Title insurance company.

6d Medical Offices. Establishments providing licensed health care services, but not including hospitals or residential health care facilities.

Examples: Doctor's office;
Physical therapist's office;
Dentist's office;
Medical laboratory;
Radiologist's office;
Chiropractor's office;
Podiatrist's office.

Group 8 Business Support Services.

8a Building Maintenance Services. Establishments primarily engaged in the provision of maintenance and custodial services.

Examples: Janitorial service;
Window cleaning service;
Landscape maintenance service.

8b Business Equipment Sales and Services. Establishments primarily engaged in the sale, rental, or repair of equipment or supplies used by business and professional offices.

Examples: Business machine repair shop;
Hotel equipment and supply firm;
Office equipment and supply firm.

Group 10 General Consumer Services.

10a Cosmetic Services. Establishments primarily engaged in the provision of grooming and cosmetic services to humans.

Examples: Barber shop;
Beauty shop;
Manicurist.

10b Light Commercial Services. Establishments primarily engaged in the provision of light commercial services.

Examples: Photographic studio;
Costume rental shop;
Music lesson studio;
Florist's shop;
Boutique.

10c Consumer Repair Services. Establishments primarily engaged in repairing consumer goods.

Examples: Tailor's shop;
Apparel pressing, repair and alteration services;
Gunsmith's shop;
Locksmith's shop;
Radio/television repair shop;
Shoe repair shop;
Watch, clock and jewelry repair services.

Not included: Automotive repair services.

Group 12 Retail Trade.

12a General Retail Trade. Establishments primarily engaged in the retail sale of commonly needed consumer goods, entirely within enclosed buildings of no more than twenty thousand square feet.

Examples: Auto parts shop selling new or reconditioned goods;
Grocery store;
Drug store;
Clothing or drygoods store;
Bookstore or newsstand;
Hardware store;
Home supply store;
Heating, plumbing or electrical supply shop.

Not included: Auto sales;
Adult book shop;
Wholesale or nonretail sales;
Outdoor storage of goods;
Auto wrecking or dismantling;
Heavy or industrial equipment sales.

12b Retail Trade Within Large Enclosures. Establishments engaged in the retail sale of commonly needed consumer goods, within enclosed buildings of more than twenty thousand square feet.

Examples: As listed under Group 12a.

Not included: As listed under Group 12a.

12c Shopping Center. A group of three or more commercial shops or establishments on the same premises contained within or more buildings having an aggregate of forty thousand square feet or more of interior space, planned, developed and managed as a unit.

Example: Shopping center containing large grocery, drug or discount stores.

Not included: As listed under Group 12a.

12d Construction Yard Sales. Establishments primarily engaged in outdoor retail sale of home improvement and building materials.

Examples: Retail lumberyard;
Building supply yard.

Not included: Contractor's storage yard;
Storage or sale of nonretail goods;
Industrial uses.

Group 14 Eating and Drinking Places.

14a Eating Places. Establishments primarily engaged in retail sale of prepared foods and drink, including the incidental sale of alcoholic beverages.

Examples: Restaurant or dinner house;
Cafeteria or lunch counter;
Delicatessen;
Drive-in restaurant;
Diner;
Soda fountain;
Café;
Greasy-spoon;
Fast food restaurants.

Not included: Bars and places primarily engaged in sale of alcoholic beverages by the drink.

14b Drinking Places. Establishments primarily engaged in the retail sale of alcoholic drinks, including liquor, spirits, beer and wine, for consumption on the premises, including the incidental sale of prepared foods.

Examples: Bar;
Saloon;
Cocktail lounge;
Cabaret or discotheque;
Nightclub;
Tap room or beer garden;
Tavern;
Roadhouse.

14c Drive-In Restaurants. Establishments engaged in the retail sale of food and drink where automobile driver-in or drive-through facilities (other than parking lots) are provided.

Examples: Drive-in restaurant;
Drive-through restaurant;
Fast-food restaurant with automobile window
service.

Group 16 Adult Entertainment. Businesses engaged in providing
"adult entertainment."

Group 18 Social Services.

18a Individual and Family Services. Establishments primarily
engaged in providing social services (including counseling,
welfare, referral, disaster, and temporary relief services) to
families and individuals.

Examples: Senior citizens' center;
Youth center;
Welfare office;
Community service bureau or league;
Community center;
Counseling center;
Adult day care center.

18b Vocational Services. Establishments primarily engaged in
job training and vocational rehabilitation of unemployed,
handicapped and disadvantaged persons.

Examples: Job Corps center;
Sheltered workshop;
Goodwill workshop;
Vocational rehabilitation center;
Job training facility.

18c Child Day Care Services. Establishments primarily engaged
in providing day care for infants, children and minors, or in
providing prekindergarten education, where medical care or
delinquency correction is not a substantial element of the use.

Examples: Child or day center;
Nursery school;
Preschool center.

Group 20 Private Institutions.

20a Private Educational or Religious Institutions. Institutions
providing educational or religious facilities or services which
are not owned or operated by a governmental entity.

Examples: Church or synagogue;
Religious center;
Nursery school;

Elementary school;
High school or junior high school;
College;
University.

20b Cultural or Social Institutions. Institutions providing cultural or social facilities or services.

Examples: Theater;
Amphitheater;
Art gallery;
Botanical garden;
Meeting hall;
Fraternal or lodge hall;
Museum.

20c Health Care Institutions. Hospitals and similar licensed health care institutions providing inpatient facilities or treatment.

Examples: Hospital;
Sanitarium;
Nursing home;
Convalescent home or hospital.

Group 22 Sports and Recreational Facilities.

22a Indoor Sports and Recreation Facilities. Commercial sports and recreational uses conducted within an enclosed building.

Examples: Bowling alley;
Billiard parlor;
Electronic amusement center;
Health club;
Judo or karate studio;
Swimming pool;
Tennis, handball or racquetball court;
Pool parlor;
Dance hall, studio or school;
Movie theater;
Skating or roller rink.

22b Outdoor Sports or Recreational facilities. Commercial sports or recreational uses conducted in outdoor or open facilities.

Examples: Ball park;
Drive-in theater;
Golf course or driving range;
Tennis court;
Shooting range;

Rod and gun club;
Archery range;
Riding academy or stable;
Miniature golf course;
Swimming pool;
Sport fishing farm or pool.

Group 24 Automotive.

24a Light Automotive Repair. Establishments engaged in repair of automobiles, and the incidental sale, installation or repair of automotive equipment or parts, with use of no more than two bays.

Examples: Small auto repair shop;
Auto glass, muffler or brake shop;
Battery or tire installation.

Not included: Body and fender shop;
Auto painting;
Auto wrecking or dismantling;
Tire recapping.

24b Major Auto Repair. General repair and maintenance of automobiles and trucks, and the incidental sale, installation or repair of automotive equipment or parts, with use of more than two bays.

Examples: Garage;
Engine removal or rebuilding;
Automotive machine shop;
Body and fender shop;
Auto painting.

24c Auto Sale and Rental. Retail or wholesale or rental of automobiles, motorcycles, recreational vehicles, pickup trucks, and noncommercial trucks, with incidental repair or maintenance.

Examples: Automotive dealership;
Car rental agency;
Recreational vehicle dealership.

24d Car Washes. Washing and polishing of autos.

Examples: Auto laundries;
Car wash.

Group 26 Vehicular Storage.

26a Impound Storage. Storage of impounded or towed motor vehicles.

Examples: Impound yard;

Repossessor's yard;
Tow away storage.

Not included: Wrecking or dismantling yard.

26b Recreational Vehicle Storage. Storage of recreational vehicles and boats.

26c Fleet storage. Storage or parking of vehicles primarily used for commercial or business purposes, except as otherwise permitted as an accessory use.

Examples: Fleet storage yard;
Bus or taxi yard;
Truck parking or storage yard.

Not included: Retail sales;
Wrecking or dismantling yard.

26d General Parking. Parking of motor vehicles on a temporary basis within a privately owned off-street parking area, with or without a fee, except as otherwise permitted as an accessory use.

Examples: Commercial parking lot;
Parking garage;
Underground parking lot.

Group 28 Vehicle Fuel Sales.

28a Retail Gasoline Sales. Retail sales, on the premises, of gasoline or other vehicular fuel, together with incidental sale of tires, batteries, small parts, and the provision of minor repair services and lubrication.

Examples: Auto filling station;
Service station.

28b Truck stops. Establishments primarily engaged in the roadside service of the trucking industry, including truck cleaning facilities, minor repair services, shower facilities, and incidental eating facilities and retail sales.

Group 30 Light Equipment Repair and Sale.

30a Light Equipment Repair. Repair and servicing of light mechanical equipment such as lawnmowers, chainsaws and garden tractors, where conducted entirely within an enclosed, sound-insulated structure.

30b Light Equipment Sale. Retail or wholesale sale or rental,

of light mechanical equipment, where all equipment is stored indoors or behind a view-obscuring fence, together with incidental repair and servicing.

Group 32 Heavy Equipment Repair and Sale.

32a Heavy Equipment Repair. Repair and servicing of heavy equipment, such as farm and construction equipment, and trucks, including body repair, painting and steam-cleaning.

32b Heavy Equipment Sale. Retail or wholesale sale or rental, from the premises, of heavy equipment, including construction equipment, trucks, and farm equipment, together with incidental maintenance of rental equipment.

Group 34 Wholesaling, Storage and Distribution.

34a Indoor Wholesaling and Storage. Storage, wholesaling, warehousing and distribution of goods and products within an enclosed building.

Examples: Mini-warehouse;
Moving and storage firm;
Warehouse;
Wholesale distributor;

34b Outdoor Wholesaling and Storage. Storage, wholesaling, distribution and handling of goods, materials and equipment outdoors.

Examples: Grain elevator;
Monument or stone yard;
Open storage yard.

34c Fuel Jobbing. Storage of fuels primarily for distribution and equipment, not including retail sales, together with incidental office uses.

Group 36 Public Services.

36a Minor Transportation. Use of land for transportation of goods and services, including appurtenances such as signs, signals, poles and power lines, but not including streets or highways.

Example: Ferry Dock.

Not included: Railroad yards, switching facilities, sidings.

36b Public Service Facilities. Use of land for public utility.

distribution centers.

Examples: Electrical substation;
Electrical transmission line;
Gas metering station;
Water or sewer pumping station;
Telephone exchange;
Transmission tower for radio or television;
Reservoir;
Water storage tank or tower.

36c Major transportation. Major public transportation facilities.

Examples: Airport or flight strip;
Railroad terminal or depot;
Railroad yard or switching area;
Heliport.

Group 38 Public Facilities. Provision of public services and facilities by governmental entities.

Examples: Tribal Council office;
Public school (elementary, junior high,
and high);
Community center;
Courthouse;
Fire or police station;
Historical landmark or building;
Library;
Maintenance yard;
Museum;
Park or playground;
Public recreation center.

Group 40 Festival Activities. Pow Wows, festivals, carnivals and similar activities conducted outdoors or in temporary tents or structures, involving concentrations of people.

Examples: Pow Wows;
Carnival;
Circus;
Fair;
Rodeo;
Flea market.

Group 42 Agriculture.

42a General Agriculture. Agricultural uses under this group shall be limited to the following:

1. Small-scale hatching, raising, breeding, butchering and

marketing of small farm animals such as chickens, turkeys, poultry and eggs, rabbits, fish, frogs, mink and chinchilla; provided that not more than one hundred mature animals of all species combined may be kept, fed or maintained on parcels of less than five acres;

2. Commercial grazing of cattle, horses, sheep, goats, hogs and other farm stock; provided, that on parcels of less than five acres not more than two such animals per acre shall be kept or maintained; and provided further, that there shall be no limit on the number per acre of sheep grazed on fields for the purpose of cleaning up unharvested crops where such grazing is not continued for more than four weeks in any six-month period;

3. Selective or experimental breeding, and raising and training, or cattle, horses, sheep, goats, hogs and other farm stock subject to the limitations set forth in subsection 2 above;

4. Crop, truck and tree farming;

5. Propagation and raising of plants and nursery stock in greenhouse;

6. Stands for the display and sale of produce grown on the premises where the stand is located;

7. Wholesale and retail sale of nursery products.

Not included: Uses described under Groups 42b and c.

42b Concentrated Stock Operations. Concentrated feeding, breeding, boarding and handling of farm and domestic animals.

Examples: Feed lot;
Auction or sales yard;
Riding academy;
Hog ranch;
Menagerie;
Animal hospital;
Dog kennel or breeding facility;
Dairy.

42c Heavy Agriculture. Processing of agricultural products for wholesale or retail sale.

Examples: Packing shed;
Processing operation, including canning, freezing or dehydrating;
Slaughterhouse;

Meat packing plant.

Not included: Small scale animal processing operations incidental to uses permitted under Group 42b.

Group 44 Gaming Activities. The conducting of any Class I, II or III gaming as defined by the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq. and conducted in accordance with an ordinance adopted by the Tribe and approved by the National Indian Gaming Commission.

Examples: Gaming Facility
Cardroom
Off-Track Betting Facility

Group 46 Interment Services.

46a Cremation. Cremation of human remains.

Example: Crematorium.

46b Interment. Interment of human remains.

Examples: Cemetery;
Mausoleum;
Columbarium;
Cinerarium.

46c Undertaking. Undertaking services for dead human bodies, including the operation of funeral homes or other disposal.

Examples: Mortuary;
Funeral home;
Embalming.

Group 48 Custom Manufacturing. Small shops engaged in the custom manufacturing of goods by hand, having facilities for no more than three workers, and using machines of no more than 7.5 horsepower.

Examples: Cabinet shop;
Candle-making shop;
Ceramic studio;
Custom furniture shop;
Custom metal working shop;
Stained glass studio;
Custom woodworking shop.

Group 49 Research and Development Laboratories. Establishments primarily engaged in laboratory or other physical research and development.

Examples: Chemical laboratories;
Development of computer and related technology;
Engineering laboratories;
Food research;
Industrial laboratories.

Group 50 Industrial.

50a General Industrial. Industrial plants and facilities used primarily for the manufacturing compounding, processing, assembling, packaging, treatment or fabrication of goods, materials and products.

Examples: Facility to assemble electronic appliances, instruments and devices (e.g., radios, computers, calculators, phonographs, coils, condensers, transformers, crystal holders, and other similar items);

Bakery;

Dairy;

Laboratory (e.g., experimental, photo or motion picture, research or testing);

Facility to manufacture, compound, process, package or treat such products as the following:

Candy;

Cosmetics or perfumes;

Drugs or pharmaceuticals;

Perfumed toilet soap;

Soft Drinks.

Facility to manufacture, compound, assemble, package or treat articles or merchandise from previously prepared materials such as the following;

Cellophane;

Canvas;

Cloth;

Cork;

Feathers;

Felt;

Fibre;

Fur;

Glass;

Hair;

Horn;

Leather;

Paper;

Plastic;

Wax;

Precious or semi-precious metals or stones;

Shell;
Textiles;
Tobacco;
Wire;
Yarns;
Paint;
Previously pulverized clay.

Excluding: Rendering of fats and oils;
Manufacture of paint employing a boiling process.

50b Intermediate Industrial. Any production, processing, cleaning, service, testing, repair, or storage of materials other than those listed under Use Group 50a of this chapter.

Examples: Cabinet shop;
Furniture shop;
Machine shop;
Sheet metal shop;
Winery.

50ca Heavy Industrial. Uses which involve inherently dangerous or objectionable elements difficult to control.

Examples: Acetylene gas manufacture or storage;
Acid manufacture and reclaiming;
Aircraft factory;
Alcohol distillation;
Ammonia, bleaching powder or chlorine manufacture;
Asphalt manufacture and refining;
Automobile assembly plant;
Boiler works;
Brick, tile, cement block or terracotta;
Concrete products manufacture;
Cotton gin or oil mill;
Freight classification yard;
Gas, processing and manufacturing;
Iron, steel, brass or copper foundry or fabrication plant;
Lampblack manufacture;
Manufacture, including heavy tile products;
Natural gas, processing and absorption plants;
Oilcloth or linoleum manufacture;
Oil, extracting and dehydration facilities or reduction;
Paint, oil, shellac, turpentine or varnish manufacture;
Paper pulp manufacture;

Petroleum refinery, together with all plants and facilities incidental to the operation thereof in connection with the manufacture of all present and future byproducts of oil, petroleum, gas, gasoline and other hydrocarbon substances;
Petroleum: storage, processing, transportation and distribution of oil, petroleum, gas, gasoline and other hydrocarbon substances;
Plastic, manufacture of;
Potash works;
Railroad repair shop;
Roofing manufacture;
Salt works;
Soap manufacture;
Soda and compound manufacture;
Stone mill;
Stove and shoe polish manufacture;
Tar distillation or tar products manufacture;
Taxidermy;
Wool pullings, scoring.

50d Very Heavy Industrial. Uses which involve processes prone to excessive noise or other nuisance.

Examples: Blast furnace or coke oven;
Cement, lime, gypsum or plaster of Paris, manufacture;
Distillation of bones;
Drop forge industry;
Explosives, manufacture or storage;
Fat rendering;
Fertilizer manufacture;
Garbage, offal or dead animal reduction or dumping;
Oil extraction plants, other than petroleum products;
Rubber, reclaiming, or the manufacture of synthetic rubber or its constituents;
Rock crusher;
Smelting of tin, copper, zinc, nickel, iron ores;
Storage or bailing of rags, paper, iron or junk;
Tannery or the curing of storing of raw hides;
Lumber and planing mill.

Group 52 Semi-conductor Manufacturing. Establishments primarily engaged in manufacturing semi-conductor and related solid state devices.

Examples: Circuit boards;
Electronic devices;
Fuel cells;
Hybrid integrated circuits;
Infra-sensors;
Light sensitive devices;
Mirco circuits;
Microwave components;
Monolithic integrated circuits;
Printed circuits;
Quartz crystals;
Semi-conductor circuit networks;
Semi-conductors;
Solar cells;
Solid state electronic devices;
Transistors;
Ultra-violet sensors.

Group 54 Extractive. Operation of equipment for the removal of deposits of natural minerals, fossil fuels and diatomaceous earth, including necessary exploration activities.

Examples: Gas and oil;
Metallic and nonmetallic mineral removal;
Diatomaceous earth removal;
Pit operations;
Quarries;
Sand and gravel removal.

Group 56 Scrap Operations. Places of business primarily engaged in the storage, sale, dismantling or other processing of waste materials which are not intended for reuse in their original form.

Examples: Automotive wrecking yards;
Junkyards;
Paper salvage yards;
Recycle centers.

06.030 Classification of proposed uses. In classifying proposed uses within the use groups listed in Section 06.020, the following rules shall apply:

A. Each proposed use shall be deemed to fall within the use group which it most closely resembles, based upon common functional, product and compatibility characteristics.

B. Multiple uses proposed by one or more persons shall be classified separately into appropriate use groups.

Chapter 08

ZONES ESTABLISHED, BOUNDARIES, ZONING MAP

Sections:

- 08.010 Primary zones established.
- 08.020 Combining zones established.
- 08.030 Location and boundaries.
- 08.040 Zoning map.
- 08.050 Correction of errors in map.
- 08.060 Determining uncertain boundaries.
- 08.070 Principal zone regulations.
- 08.080 Combining zoning regulations.
- 08.090 Applicability.

08.010 Primary zones established. The following primary zones are hereby established:

<u>Zone</u>	<u>Symbol</u>
Agricultural	A
Residential estates	RE
Single-family residence	R1
Medium-density residence	R2
Multiple-family residence	R3
Administrative office	C0
Community commercial	C1
Heavy commercial	C2
Limited industrial	ML
Heavy industrial	MH
Industrial park	IP
Public facility	PF
Open space	OS
Unclassified	U

08.020 Combining zones established. In addition to the primary zones established by Section 08.010, the following combined zones are hereby established:

<u>Combining Zone</u>	<u>Symbol</u>
Planned unit development	-PD
Floodway	-FW
Flood plain	-FP
Seismic study	-SS
Special lot size	-B.

08.030 Location and boundaries. The designations, locations and boundaries of the zones established by this chapter

shall be shown on a zoning map of the Rancheria adopted by the Council. The zoning map, together with all notations, references, data and other information shown thereon, shall be a part of this ordinance and subject to all of its regulations.

08.040 Zoning map. This section consists of the zoning map of the Rancheria, true copies of which are on file in the Tribal Council Office of the Tribe. The zoning map may be amended, in whole or in part, in accordance with the provisions of Chapter 78.

08.050 Correction of errors in map. Upon written application or its own motion, the council may make a specific finding that a clerical error is contained in the zoning map and direct staff to correct same.

08.060 Determining uncertain boundaries. Where uncertainty exists with respect to the boundaries of the various zones, the following rules shall apply:

A. Where the indicated zoning boundaries are approximately street or alley lines, the centerlines of such streets or alleys shall be construed to be such boundaries.

B. Where the zoning boundaries are not shown to be streets or alleys, and where the indicated boundaries are approximately section or lot lines, said lines shall be construed to be zone boundaries, unless such boundaries are otherwise indicated.

C. Where property is indicated on the zoning map as acreage and not subdivided into lots and blocks, or where the zone boundary lines are not approximately street, alley or lot lines, the zone boundary lines on the zoning map shall be determined by scale contained on such map, and where uncertainty exists, the zone boundary line shall be determined by the planning commission.

08.070 Principal zone regulations. In addition to the regulations specified in this ordinance for each of the principal zones, the general regulations set forth in Chapters 50 through 72 shall be applicable to each and every such zone. In the event of conflict between the particular regulations for each zone set forth in this ordinance and the general regulations for each zone set forth in this chapter and in Chapters 50 through 72, the more restrictive regulations shall apply.

08.080 Combining zone regulations. The regulations set forth in this ordinance for each of the combining zones shall modify the regulations for the principal zones with which they are combined. All uses and regulations of the principal zone shall apply in the combined zone, except insofar as they are

modified or augmented by the uses and regulations set forth in the combining zone regulations.

08.090 Applicability. All territory of the Rancheria shall be classified as shown on the zoning map adopted as part of this ordinance.

Chapter 10

AGRICULTURAL (A) ZONE

Sections:

- 10.010 Purpose.
- 10.020 Principal permitted uses.
- 10.030 Conditional uses.
- 10.040 Height regulations.
- 10.050 Lot regulations.
- 10.060 Additional regulations.

10.010 Purpose. The agricultural (A) zone is intended to preserve lands best suited for agricultural use from the encroachment of incompatible uses, and to preserve in agricultural use land suited to eventual development in other uses, pending proper timing for the economical provisions of utilities, major streets and other facilities, so that compact, orderly development will occur.

10.020 Principal permitted uses. The following are principal permitted uses in the A zone:

- Use group 2 (a) Single-family residences;
- 42 (a) General agriculture;
- Agriculture accessory buildings and uses.

10.030 Conditional uses. The following are conditional uses in the A zone:

- Use group 4 (a) Campgrounds;
- 18 (c) Child day care services;
- 22 (b) Outdoor sports or recreational facilities;
- 36 (b) Public service facilities;
- 40 Festival activities;
- 42 (b) Concentrated stock operations;
- 42 (c) Heavy agriculture.

10.040 Height regulations. No structure shall exceed thirty feet in height in the A zone.

10.050 Lot regulations. The following minimum lot regulations shall apply in the A zone, except in the case of green houses:

- A. Lot area, Five acres;
- B. Lot width, Three hundred feet;
- C. Front yard, Twenty-five feet;
- D. Side yards, Ten feet;
- E. Rear yard, Twenty-five feet.

10.060 Additional regulations. The following regulations also shall apply in the A zone:

A. Any structure or enclosure, not including pastures, in which livestock (except domestic pets in household numbers, or animals) is contained, shall be not less than two hundred feet from any residential or commercial district, or from any school or institution for human care.

B. The following standards shall apply to greenhouses:

1. The maximum noise level at the property line resulting from fans or equipment shall not exceed forty-five CNEL.

2. No direct or sky-reflected glare from any light source emanating from a greenhouse shall exceed 0.1 foot-candle.

3. All activities involving and all storage of flammable explosive materials or potentially harmful chemicals shall be subject to approval by the fire chief or tribal conservation officer as appropriate.

4. An on-site drainage system shall be provided to keep run-off from greenhouse operations off of adjacent assignments, lots or properties.

Chapter 12

RESIDENTIAL ESTATES (RE) ZONE

Sections:

- 12.010 Purpose.
- 12.020 Principal permitted uses.
- 12.030 Conditional uses.
- 12.040 Lot regulations.

- 14.040 Lot regulations.
14.050 Bed and breakfast facility standards.

14.010 Purpose. The single-family residence (R1) zone is intended to stabilize and protect residential characteristics and to promote and encourage a suitable environment for family life. The R1 zone is intended for single-family dwellings and appurtenant uses.

14.020 Principal permitted uses. The following are principal permitted uses in the R1 zone:

Use Group 2 (a) Single-family Residences.

14.030 Conditional uses. The following are conditional uses in the R1 zone:

Use Group 4 (c) Bed and Breakfast facilities;
 18 (c) Child day care services;
 20 (a) Private educational or religious
 institutions;
 22 (b) Outdoor sports or recreational
 facilities;
 36 (b) Public service facilities;
 42 (a) General agriculture;
 46 Interment services.

14.040 Lot regulations. The following regulations apply to lots in the R1 zone:

- A. Minimum lot area 6,000 square feet;
- B. Minimum lot width 60 feet;
- C. Maximum lot depth 3 times lot width;
- D. Maximum ground coverage 40 percent
- E. Minimum yards:
 - 1. Front 20 feet;
 - 2. Rear 20 feet;
 - 3. Side 6 feet;
- F. Maximum building height 35 feet.

14.050 Bed and breakfast facility standards. The following standards shall govern the establishment of bed and breakfast facilities within the single-family residence zone (R1):

A. The structure shall serve as the primary residence of the lessee or assignee and the bed and breakfast use shall be operated as an accessory use to the lessee or assignee's residence.

B. The residential and any historic character of the building shall be preserved.

C. There shall be a maximum of four guestrooms per parcel.

D. No meals shall be served other than to overnight guests of the bed and breakfast facility.

E. One off-street parking space meeting the requirements of Chapter 52 shall be provided for each guestroom used in the non-residential operation in addition to the two spaces required for the residence, unless the bed and breakfast facility is within three hundred feet of a public parking lot.

F. Signs may be permitted in connection with this use in an R1 zone, but shall be limited to no more than eight square feet in area and shall be considered as part of the review for the conditional use permit.

Chapter 16

RESIDENTIAL MEDIUM-DENSITY (R2) ZONE

Sections:

- 16.010 Purpose.
- 16.020 Principal permitted use.
- 16.030 Conditional uses.
- 16.040 Lot regulations.

16.010 Purpose. The residential medium-density (R2) Zone is intended to stabilize and protect residential characteristics, and to promote intermediate density residential development.

16.020 Principal permitted uses. The following are principal permitted uses in the R2 zone:

- | | | |
|-----------|-------|---------------------------|
| Use Group | 2 (a) | Single-family residences; |
| | 2 (b) | Two-family residences. |

16.030 Conditional uses. The following are conditional uses in the R2 zone:

- | | | |
|-----------|--------|--|
| Use Group | 2 (c) | Group residential; |
| | 18 (c) | Child day care services; |
| | 20 (a) | Private educational or religious institutions; |

- 22 (b) Outdoor sports or recreational facilities;
- 36 (b) Public service facilities;
- 42 (a) General agriculture;
- 46 Interment services.

16.040 Lot regulations. The following regulations apply to lots in the R2 zone:

- A. Minimum lot area 6,000 square feet, but not less than 3,000 square feet per dwelling unit;
- B. Minimum lot width 60 feet;
- C. Maximum ground coverage 50 percent
- D. Minimum yards:
 - 1. Front 20 feet;
 - 2. Rear 20 feet;
 - 3. Side 6 feet;
- E. Special yards for dwelling The distance between separate buildings of a dwelling group shall be not less than 12 feet;
- F. Maximum building height 35 feet.

Chapter 18

MULTIPLE-RESIDENCE (R3) ZONE

Sections:

- 18.010 Purpose.
- 18.020 Principal permitted uses.
- 18.030 Conditional uses.
- 18.040 Lot regulations.

18.010 Purpose. The multiple-residence (R3) zone is intended to stabilize and protect residential characteristics and to promote higher-density residential development.

18.020 Principal permitted uses. The following are principal permitted uses in the R3 zone:

Use Group 2 Residential

18.030 Conditional uses. The following are conditional uses in the R3 zone:

Use Group	6	Business and professional offices;
	18 (c)	Child day care services;
	20 (a)	Private educational or religious institutions;
	20 (c)	Health care institutions;
	22 (b)	Outdoor sports or recreational facilities;
	36 (b)	Public service facilities;
	46	Interment services.

18.040 Lot regulations. The following regulations apply to lots in the R3 zone:

- A. Minimum lot area 6,000 square feet, but not less than 1,500 square feet for each dwelling unit;
- B. Maximum ground coverage 60 percent;
- C. Minimum lot width 60 feet;
- D. Maximum lot depth 3 times lot width;
- E. Minimum yards:
 - 1. Front 20 feet;
 - 2. Rear 15 feet;
 - 3. Side 6 feet;
- F. Special yards for dwelling groups
The distance between separate buildings of a dwelling group shall be not less than 12 feet. (The front of any dwelling group shall be set back a minimum of 12 feet from any side of a lot line which it faces);
- G. Maximum building height 40 feet.

Chapter 20

ADMINISTRATIVE OFFICE (C0) ZONE

Sections:

- 20.010 Purpose.
- 20.020 Principal permitted uses.
- 20.030 Conditional uses.
- 20.040 Lot regulations.

20.010 Purpose. The administrative office (C0) zone is intended to provide professional, business and related services in areas adjacent to tribal administrative centers.

20.020 Principal permitted uses. The following are principal permitted uses in the C0 zone:

Use Group	6	Business and professional offices;
	18 (a)	Individual and family services;
	18 (b)	Vocational services;
	46 (c)	Undertaking.

20.030 Conditional uses. The following are conditional uses in the C0 zone:

Use Group	2 (a)	Single-family residence as an accessory to permitted use;
	4 (b)	Tourist accommodations;
	8	Business support services;
	12 (a)	General retail trade;
	14 (a)	Eating places;
	14 (b)	Drinking places;
	20 (c)	Health care institutions;
	26 (d)	General parking.

20.040 Lot regulations. The following regulations apply to lots in the C0 zone:

- A. Minimum lot area 5,000 square feet;
- B. Maximum lot width 60 feet;
- C. Minimum yards:

- 1. Front 10 feet, except that where frontage is in a block which is partially in an R zone, the front yard shall be the same as that required in such R zone;

2. Rear

15 feet, except that where a rear yard abuts on an alley, such rear yard may be not less than 5 feet;

3. Side

None, except that a side yard of a lot abutting on a lot in an R zone shall be not less than the front yard required in such R zone;

D. Maximum building height 45 feet.

Chapter 22

COMMUNITY COMMERCIAL (C1) ZONE

Sections:

- 22.010 Purpose.
- 22.020 Principal permitted uses.
- 22.030 Conditional uses.
- 22.040 Lot regulations.

22.010 Purpose. The community commercial (C1) zone is intended to provide services and meet the general commercial needs of the Tribe and Rancheria community.

22.020 Principal permitted uses. The following are principal permitted uses in the C1 zone:

Use Group	6	Business and professional offices;
	8	Business support services;
	10	General consumer services;
	12 (a)	General retail trade;
	14 (a)	Eating places;
	18	Social services;
	20 (a)	Private educational or religious institutions;
	20 (b)	Cultural or social institutions;
	22 (a)	Indoor sports and recreational facilities;
	30	Light equipment repair and sale;
	44	Gaming Activities;
	46 (a)	Cremation;
	46 (c)	Undertaking.

22.030 Conditional uses. The following are conditional uses in the C1 zone:

Use Group	2 (a)	Single-family residence as accessory to permitted use;
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- 4 (b) Tourist accommodations;
- 12 Retail trade, except general retail trade;
- 14 (b) Drinking places;
- 14 (c) Drive-in restaurants;
- 16 Adult entertainment;
- 20 (c) Health care institutions;
- 24 (a) Light automotive repair;
- 26 (d) General parking;
- 28 (a) Retail gasoline sales;
- 40 Festival activities;
- 46 (b) Interment;
- 48 Custom manufacturing.

22.040 Lot regulations. The following regulations apply to lots in the C1 zone:

- A. Minimum lot area 6,000 square feet;
- B. Minimum lot width 60 feet;
- C. Minimum yards:
 - 1. Front 10 feet, except that where frontage is in a block which is partially in an R zone, the front yard shall be the same as that required in such R zone;
 - 2. Rear 15 feet, except that where a rear yard abuts on an alley, or street such rear yard may be not less than 5 feet;
 - 3. Side None, except that a side yard of a lot abutting on a lot in an R zone shall be not less than the front yard required in such R zone;
- D. Maximum building height 45 feet.

Chapter 24

HEAVY COMMERCIAL (C2) ZONE

Sections:

- 24.010 Purpose.
- 24.020 Principal permitted uses.
- 24.030 Conditional uses.
- 24.040 Lot regulations.

24.010 Purpose. The heavy commercial (C2) zone is intended to provide services and commercial facilities of a heavier nature than in the community commercial (C1) zone.

24.020 Principal permitted uses. The following are principal permitted uses in the C2 zone:

Use Group	4 (b)	Tourist accommodations;
	6	Business and professional offices;
	8	Business support services;
	10	General consumer services;
	12 (a)	General retail trade;
	14 (a)	Eating places;
	16	Adult entertainment;
	18	Social services;
	20 (a)	Private educational or religious institutions;
	20 (b)	Cultural or social institutions
	22 (a)	Indoor sports and recreation facilities;
	24 (a)	Light automotive repair;
	24 (c)	Auto sale and rental;
	24 (d)	Car washes;
	30	Light equipment repair and sale;
	32 (b)	Heavy equipment sale;
	46 (a)	Cremation;
	46 (c)	Undertaking.

24.030 Conditional uses. The following are conditional uses in the C2 zone:

Use Group	2 (a)	Single-family dwelling as an accessory to a permitted use;
	4 (a)	Campgrounds;
	12	Retail trade, except general retail trade;
	14 (b)	Drinking places;
	14 (c)	Drive-in restaurants;
	20 (c)	Health care institutions;
	22 (b)	Outdoor sports or recreational facilities;
	24 (b)	Major auto repair;
	28	Vehicle fuel sales;
	32 (a)	Heavy equipment repair;
	34 (d)	Construction yards;
	40	Festival activities;
	46 (b)	Interment;
	48	Custom manufacturing.

24.040 Lot regulations. The following regulations apply to lots in the C2 zone:

- A. Minimum lot area 6,000 square feet;
- B. Minimum lot width 60 feet;
- C. Minimum yards:
 - 1. Front 15 feet;
 - 2. Rear/side None, except that where a yard abuts on an R zone such yard shall be not less than 15 feet;
- D. Maximum building height 45 feet.

Chapter 26

LIMITED INDUSTRIAL (ML) ZONE

Sections:

- 26.010 Purpose.
- 26.020 Principal permitted uses.
- 26.030 Conditional uses.
- 26.040 Lot regulations.

26.010 Purpose. The limited industrial (ML) zone is intended to apply to areas in which light manufacturing and heavy commercial uses of a non-nuisance type and large administrative facilities are the desirable predominant uses.

26.020 Principal permitted uses. The following are principal permitted uses in the ML zone:

- | | | |
|-----------|--------|--|
| Use Group | 24 | Automotive, except auto sale and rental; |
| | 32 | Heavy equipment repair and sale; |
| | 34 (a) | Indoor wholesaling and storage; |
| | 42 (a) | General agriculture; |
| | 48 | Custom manufacturing; |
| | 50 (a) | General industrial. |

26.030 Conditional uses. The following are conditional uses in the ML zone:

- | | | |
|-----------|--------|---|
| Use Group | 2 (a) | Single-family residence as an accessory to a permitted use; |
| | 22 (b) | Outdoor sports or recreational facilities; |
| | 26 | Vehicular storage; |

- 28 (b) Truck stops;
- 34 Wholesaling, storage and distribution; except indoor wholesaling and storage;
- 36 (b) Public service facilities;
- 40 Festival activities;
- 42 (b) Concentrated stock operations;
- 50 (b) Intermediate industrial;
- 54 Extractive;
- 56 Scrap operations.

26.040 Lot regulations. The following regulations apply to lots in the ML zone:

- A. Minimum lot area 6,000 square feet;
- B. Minimum lot width 60 feet;
- C. Minimum yards:
 - 1. Front 15 feet;
 - 2. Rear/side None, except that where a yard abuts on an R zone such yard shall be not less than 20 feet;
- D. Maximum building height 45 feet.

Chapter 28

HEAVY INDUSTRIAL (MH) ZONE

Sections:

- 28.010 Purpose.
- 28.020 Principal permitted uses.
- 28.030 Conditional uses.
- 28.040 Lot regulations.

28.010 Purpose. The heavy industrial (MH) zone is intended to apply to areas devoted to normal operations of industries, subject only to such regulations as are needed to control nuisances and protect surrounding areas.

28.020 Principal permitted uses. The following are principal permitted uses in the MH zone:

- Use Group 24 Automotive;
- 26 Vehicular storage;
- 28 (b) Truck stops;

- 32 Heavy equipment repair and sale;
- 34 Wholesaling, storage and distribution, except fuel jobbing;
- 36 Public services;
- 42 (a) General agriculture;
- 48 Custom manufacturing;
- 50 (a) General industrial;
- 50 (b) Intermediate industrial.

28.030 Conditional uses. The following are conditional uses in the MH zone:

- | | | |
|-----------|--------|---|
| Use Group | 2 (a) | Single-family residence as an accessory to a permitted use; |
| | 22 (b) | Outdoor sports or recreational facilities; |
| | 34 (c) | Fuel jobbing; |
| | 40 | Festival activities; |
| | 42 (b) | Concentrated stock operations; |
| | 42 (c) | Heavy agriculture; |
| | 50 (c) | Heavy industrial; |
| | 50 (d) | Very heavy industrial; |
| | 54 | Extractive; |
| | 56 | Scrap operations. |

28.040 Lot regulations. The following regulations apply to lots in the MH zone:

None, except when abutting an R zone, then the yard setback abutting the R zone must be twenty feet.

Chapter 29

INDUSTRIAL PARK (I-P) ZONE

Sections:

- 29.010 Purpose.
- 29.020 Principal permitted uses.
- 29.030 Conditional uses.
- 29.040 Lot regulations.
- 29.050 Additional regulations.

29.010 Purpose. The industrial park (I-P) zone is intended to provide for the development of landscaped industrial parks which serve a variety of uses emphasizing low building concentration and suitable open space.

29.020 Principal permitted uses. The following are the principal permitted uses in the I-P zone:

Use Group	6	Business and professional offices;
	34 (a)	Indoor wholesaling and distribution;
	42 (a)	General agriculture;
	49	Research and development laboratories;
	52	Semi-conductor manufacturing.

29.030 Conditional uses. The following are conditional uses in the I-P zone:

Use Group	12 (b)	Retail trade within large facilities;
	14	Eating and drinking places;
	30	Light equipment repair and sales;
	32	Heavy equipment repair and sales;
	34 (b)	Outdoor wholesaling and storage;
	36	Public services;
	38	Public facilities;
	50 (a)	General industrial;
	50 (b)	Intermediate industrial.

29.040 Lot regulations. The following regulations apply to lots in the I-P zone:

- A. Minimum lot area 20,000 square feet;
- B. Minimum lot width 100 feet;
- C. Maximum ground coverage 50 percent;
- D. Minimum yards:
 - 1. Front 20 feet;
 - 2. Rear 20 feet;
 - 3. Side 10 feet;
- E. Maximum building height 45 feet.

29.050 Additional regulations. The following regulations apply to lots in the I-P zone:

A. Site plan review is required for all uses in accordance with site plan regulations contained in Chapter 70.

B. All conditional uses shall be subject to review in accordance with the performance standards contained in Chapter 50.

C. Exterior storage shall be allowed in rear and side areas only, provided the location, extent and screening of such storage is approved in accordance with the site plan review regulations contained in Chapter 70.

Chapter 30

PUBLIC FACILITY (PF) ZONE

Sections:

- 30.010 Purpose.
- 30.020 Principal permitted uses.
- 30.030 Conditional uses.
- 30.040 Lot regulations.

30.010 Purpose. The public facility (PF) zone is intended to be applied to leases, assignments or properties which are properly used for, or are proposed to be used for, public purposes or for specified public utility purposes.

30.020 Principal permitted uses. The following are principal permitted uses in the PF zone:

Use Group	22	Sports and recreational facilities;
	36	Public services;
	38	Public facilities;
	42 (a)	General agriculture;
	46 (b)	Interment.

30.030 Conditional uses. The following are conditional uses in the PF zone:

Use Group	40	Festival activities.
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30.040 Lot regulations.

None.

Chapter 32

OPEN SPACE (OS) ZONE

Sections:

- 32.010 Purpose.
- 32.020 Principal permitted uses.
- 32.030 Conditional uses.
- 32.040 Lot regulations.

32.010 Purpose. The open space (OS) zone is intended to preserve land in its natural state, or to provide open space buffer areas in which uses are restricted to recreational, conservation or light agricultural types.

32.020 Principal permitted uses. The following are principal permitted uses in the OS zone:

None.

32.030 Conditional uses. The following are conditional uses in the OS zone:

Use Group	22 (b)	Outdoor sports or recreational facilities;
	40	Festival activities;
	42 (a)	General agriculture;
	46 (b)	Interment.

32.040 Lot regulations.

None.

Chapter 34

UNCLASSIFIED - INTERIM (U) ZONE

Sections:

34.010 Purpose.
34.020 Principal permitted uses.
34.030 Conditional uses.
34.040 Additional regulations.

34.010 Purpose. The unclassified-interim (U) zone is intended to be applied on an interim-period basis to lands which are substantially undeveloped, which have no particular use character established, or which are in transition from an agricultural or other general use to more urban types of uses. The U zone is to be considered a temporary holding zone which will be replaced by precise primary zones as determined on the basis of zoning studies.

34.020 Principal permitted uses. The following are principal permitted uses in the U zone:

Use Group	42 (a)	General agriculture.
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34.030 Conditional uses. The following are conditional uses in the U zone:

Use Group	2 (a)	Single-family residence.
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34.040 Additional regulations. Other regulations shall be as provided for in the R1 zone, or as may be specified in an approved use permit.

Chapter 36

PLANNED UNIT DEVELOPMENT COMBINING (-PD) ZONE

Sections:

- 36.010 Purpose.
- 36.020 Combining zone.
- 36.030 Inclusion in zone.
- 36.040 All uses conditional.
- 36.050 Procedure and application.

36.010 Purpose. The planned unit development combining (-PD) zone is intended to allow flexibility in development by exempting tracts or parcels of land from the strict application of the provisions of this zoning ordinance; to permit clustering of residential and other structures in order to increase open space and promote variety in layout; and to encourage living and working environments superior to those possible under primary zoning regulations.

36.020 Combining zone. The -PD zone is a combining zone, and the regulations contained in this chapter and in the development plan for each tract or parcel included in the -PD zone shall be applied in addition to and in combination with the regulations of the primary zone to which the -PD designation is attached. In the event of any conflict between the -PD regulations contained in this chapter, or in a development plan approved pursuant to this chapter and the regulations of the primary zone to which the -PD designation is attached, the -PD regulations shall control and supersede the regulations of the primary zone.

36.030 Inclusion in zone. A tract of land may be included in the -PD zone only if:

A. It consists of a single parcel, or two or more contiguous parcels;

B. The council has approved a development plan for the tract in the manner provided in this chapter.

36.040 All uses conditional. Notwithstanding any provision to the contrary in this ordinance, all uses within a -PD zone shall be conditional uses; and all uses listed in a primary zone as principal permitted uses shall be deemed to be conditional uses whenever the primary zone is combined with the -PD designation. Approval of a development plan pursuant to this chapter shall constitute a conditional use permit for the uses described in the plan.

36.050 Procedure and application. The following procedures shall be followed for inclusion of land within the -PD zone:

A. Preliminary Development Plan. Before filing a formal application for rezoning of land in the -PD zone, the applicant shall submit a preliminary development plan prepared by a licensed architect, engineer or urban planner, which shall include, at a minimum, the following information:

1. Ownership and existing uses of adjacent properties;
2. Topographic contours;
3. Existing roadways and utility easements;
4. Existing watercourses, drainage scales, storm drains, floodways and areas subject to inundation;
5. Existing wooded areas, unusual geological features, and environmental sensitive areas;
6. Proposed circulation patterns, showing both building intensities;
7. Proposed circulation patterns, showing both public and private streets;
8. Proposed parks, playgrounds, school sites and open space;
9. Proposed building sites, roadways and utility easements, together with lot lines if a subdivision is contemplated;
10. Such other information as the planning commission may require in order to determine whether the proposed project fulfills the purpose of the -PD zone and meets the general development criteria set forth in this chapter;
11. A narrative section describing the objectives of the project, its design concept, all proposed forms of ownership and proposed covenants, conditions, restrictions and maintenance agreements.

B. Hearing on Preliminary Plan. The planning commission shall hold a public hearing on the preliminary development plan, and shall give notice of the hearing in the manner required for use permit applications. It shall report its recommendations to the council in writing. Upon receipt of the commission's recommendations, the council shall hold a public hearing on the preliminary development plan and shall give notice of the hearing in the manner required for use permit applications. Upon conclusion of the public hearing, the council may approve the preliminary development plan "in principle," and such approval shall be limited to the general acceptability of the land uses

proposed, and shall not be construed to endorse precise location of uses, configuration of parcels or engineering feasibility, and shall not be deemed to be in any form or sense a commitment by the Council to approve any subsequent formal rezoning application or final development plan.

C. Application for Rezoning. After the council has approved a preliminary development plan in principle, the applicant shall submit a formal application for rezoning of the territory within the -PD zone, together with a full development plan which shall include all of the following elements:

1. All information required to be included in the preliminary development plan;
2. A sepia map with ten prints of a survey of the property, showing existing features of the property, including specimen trees, structures, streets, easements, utility lines and land uses;
3. A sepia map with prints as required by the planning director of a precise site plan which shall be in conformity with the approved preliminary development plan, and shall depict the approximate location and proposed density of dwelling units, and nonresidential building intensity;
4. A schedule for the development of the project, including but not limited to a timetable for phased construction, description of design principles for buildings and streetscapes, tabulation of the total number of acres in the proposed project and the percent thereof designated for each proposed land use, the number of dwelling units proposed (listed by type of unit), proposed retail sales area and economic justification therefor, and standards for height, open space, building intensity, population density and public improvements;
5. Building plans, including floor plans and exterior elevations;
6. Landscaping plans;
7. Engineering plans, including site grading, street improvements and public utility extensions as necessary;
8. Geological studies, as necessary;
9. Engineering feasibility studies, as necessary.

D. Findings and Approval. The planning commission, after public hearing, may recommend the inclusion of the territory for the proposed project within the -PD zone; and the council, after

public hearing, may by ordinance amend the zoning map of the Rancheria to include such territory within said zone; provided, however, that the council shall not adopt an ordinance including territory within the -PD zone unless and until it shall make the following findings of fact based upon substantial evidence;

1. That the proposed project is likely to be substantially completed within two years after inclusion of the territory within the -PD zone;

2. That the proposed project is consistent with any general plan adopted by the Tribe;

3. That the streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and that increased densities will not generate traffic in such amounts as to overload the street network outside of the -PD zone;

4. That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under the regulations applicable to primary zones;

5. That any exception from primary zone requirements is warranted by the design and amenities, including open space, incorporated in the development plan for the project;

6. That existing or proposed utility services are, or will be, adequate for the population densities proposed in the development plan.

E. Conditions on Approval. In taking action on an application for a planned unit development project pursuant to this chapter, the council may attach conditions to its approval or require that specified amendments be made prior to approval of the development plan.

Chapter 38

FLOODWAY COMBINING (-FW) ZONE

Sections:

- 38.010 Purpose.
- 38.020 Basis for establishing areas of special flood hazard.
- 38.030 Compliance.
- 38.040 Interpretation.
- 38.050 Areas included in zone.
- 38.060 Floodway regulations.

38.010 Purpose. The floodway combining (-FW) zone is intended to provide for passage of one-hundred-year base flood waters, and to provide reasonable measures for protection of life and property, in areas which are extremely hazardous owing to velocity of flood waters, debris and erosion potential.

38.020 Basis for establishing areas of special flood hazard. The Flood Boundary and Floodway Map, prepared by the Federal Insurance Administration and/or Federal Emergency Management Agency, provides the basis for establishing areas of special flood hazard on the Rancheria.

38.030 Compliance. No structure or land hereafter shall be constructed, located, extended, converted or altered without full compliance with the provisions of this chapter.

38.040 Interpretation. A. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance provision, easement, covenant or lease or assignment restriction or condition conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

B. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the Tribe;
3. Deemed neither to limit nor repeal any other powers granted to the Tribe under the Constitution of the Tribe.

38.050 Areas included in the zone. All areas designated by the symbol "-FW" on the zoning map of the Rancheria shall be subject to the regulations and restrictions contained in this chapter.

38.060 Floodway regulations. The following regulations shall apply to all areas within the Floodway combining (-FW) zone:

A. All encroachments (including but not limited to fill, new construction, substantial improvements of any kind and other development) are prohibited unless and until a registered engineer or architect has provided written certification, satisfactory to the council, that any proposed encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Where encroachment is permitted by the council pursuant to subsection A of Section 38.060, all new construction and all

substantial improvements shall comply with the flood hazard reduction regulations contained in Chapter 40 of this ordinance.

C. Before permitting the alteration or relocation of any watercourse, the council shall require written assurances from a registered professional engineer or architect that the flood-carrying capacity within the altered or relocated portion of such watercourse is maintained. In its sole discretion, the council may determine that any such assurances are incomplete or inadequate, and may deny approval of the proposed alteration or relocation.

Chapter 40

FLOOD PLAIN COMBINING (-FP) ZONE

Sections:

- 40.010 Purpose.
- 40.020 Basis for establishing areas of special flood hazard.
- 40.030 Compliance and interpretation.
- 40.040 Areas included in zone.
- 40.050 Principal and conditional uses.
- 40.060 Development permits.
- 40.070 Administration by building official.
- 40.080 Construction standards.
- 40.090 Storage of materials and equipment.
- 40.100 Standards for utilities.
- 40.110 Subdivision standards.
- 40.120 Mobile home standards.

40.010 Purpose. The Flood plain combining (-FP) zone is intended to provide regulations which will protect life and minimize property damage in areas of special flood hazard subject to inundation during a one-hundred-year base flood.

40.020 Basis for establishing areas of special flood hazard. Section 38.020 shall apply to this section of this chapter.

40.030 Compliance and interpretation. No structure or land hereafter shall be constructed, located, extended, converted or altered without full compliance with the provisions of this chapter. The rules of interpretation set forth in Section 38.040 shall apply to this chapter.

40.040 Areas included in zone. All areas designated by the symbol "-FP" on the zoning map of the Rancheria shall be subject to the regulations and restrictions contained in this chapter.

40.050 Principal and conditional uses. The principal and conditional uses permitted in the -FP zone shall be the same as those allowed under the primary zone with which the -FP zone is combined; provided, however, that the restrictions, regulations and prohibitions contained in this chapter shall supersede and take precedence over any inconsistent primary zone regulations.

40.060 Development permits. No person shall begin any construction or development within the -FP zone without first obtaining a development permit from the commission or the building official of the Tribe. Application for such permit shall be made on forms furnished by the Commission or its designated representative ("building official"), and shall contain the following information:

A. Plans in duplicate drawn to scale, showing the nature, location, dimensions and elevation of the areas to be developed, all existing and proposed structures, fill, storage of materials, and drainage facilities;

B. Proposed elevation of the lowest habitable floor (including basement) of all structures, shown in relation to mean sea level; the elevation of existing grade and proposed elevation of the lowest habitable floor of all structures with reference to mean sea level;

C. Proposed elevation in relation to mean sea level to which any structure will be flood proofed;

D. Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria set forth in Sections 40.080 through 40.120; and

E. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

40.070 Administration by building official. A. The Commission or when authorized by the Commission, the building official shall administer the provisions of this chapter, and shall receive, review and act upon all applications for development permits. In reviewing permit applications the Commission or building official shall determine:

A. Whether the permit requirements of this ordinance have been satisfied;

B. Whether the site is reasonably safe from flooding; and

C. Whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

1. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
2. Be constructed with materials resistant to flood damage,
3. Be constructed by methods and practices that minimize flood damages, and
4. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. The Commission or building official shall obtain, review and reasonably utilize any base flood elevations and Floodway data available from a federal, state or other source, including data developed pursuant to this chapter, as criteria for requiring that new construction, substantial improvements and other development within the FP and FW zones to meet the standards of this chapter. The Commission or building official shall maintain for public inspection and copying all maps, data, certifications and other information reasonably related to administration of this chapter.

C. The Commission or building official is authorized, where necessary, to make interpretations as to the exact location of zone boundaries, and of boundaries of areas of special flood hazard.

40.080 Construction standards. The following construction standards shall apply to all development and construction within areas of special flood hazard, including all areas within the -FW and -FP zones:

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure. All mobile homes shall meet the anchoring standards set forth in Section 40.120.

B. All new construction and substantial improvement of existing structures shall employ materials and utility equipment resistant to flood damage, and methods and practices that minimize flood damage.

C. All new construction and substantial improvement to any existing structure shall have the lowest habitable floor (including basement) elevated to or above the base flood elevation. Upon completion of the structure, the elevation of the lowest habitable floor (including basement) shall be certified by a registered professional engineer or surveyor as meeting the standards of this subsection.

D. Nonresidential construction either shall be elevated as required by subsection C of Section 40.080, or together with attendant utility and sanitary facilities shall:

1. Be flood-proofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect that the standards of this subsection have been satisfied.

E. Mobile homes shall meet the standards set forth in subsections C or D above, and, in addition, shall meet the standards set forth in Section 40.120.

40.090 Storage of materials and equipment. The storage or processing of materials that in time of flooding are buoyant, flammable, explosive, or could be injurious to human or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within a reasonable time after flood warning.

40.100 Standards for utilities. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters. On-site waste disposal systems shall be located so as to avoid impairment to them, or contamination from them, during flooding.

40.110 Subdivision standards. The following regulations shall apply to subdivisions within the -FP zone:

A. All preliminary subdivision proposals shall identify flood hazard areas and base flood elevations.

B. All final subdivision plans shall provide the elevation of proposed structures and pads. If the site is filled above the

base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor.

C. All subdivision proposals shall be consistent with the need to minimize flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed so as to minimize flood damage.

E. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

40.120 Mobile home standards. The following standards shall apply to all mobile homes, mobile home parks and mobile home subdivisions within the -FP zone:

A. All mobile homes, and additions thereto, shall be anchored so as to resist flotation, collapse, or lateral movement, by one of the following methods:

1. An anchoring system designed to withstand horizontal forces of twenty-five pounds per square foot, and uplift forces of fifteen pounds per square foot; or

2. An anchoring system consisting of over-the-top and frame ties connected to ground anchors as follows:

- a. Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations; provided, that mobile homes less than fifty feet in length shall require only one additional tie per side;

- b. Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate points; provided, that mobile homes less than fifty feet in length shall require only four additional ties per side; and

- c. All components of the anchoring system shall be capable of carrying a force of four thousand pounds.

B. The following standards shall be applied to mobile homes placed in mobile home parks and subdivisions, new mobile home parks and subdivisions, expansions to existing mobile home parks and subdivisions, and repair, reconstruction or improvement of existing mobile home parks and subdivisions which equals or exceeds fifty percent of the value of streets, utilities and pads before commencement of work:

1. Adequate surface drainage and access for a hauler shall be provided;

2. All mobile homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home is at or above the base flood level. If elevated on pilings:

a. The lots shall be large enough to permit steps;

b. Pilings shall be placed in stable soil no more than ten feet apart; and

c. Reinforcement shall be provided for pilings more than six feet above ground level.

C. No mobile home shall be placed in a Floodway.

Chapter 42

SEISMIC STUDY COMBINING (-SS) ZONE

Sections:

42.010 Purpose.

42.020 Special regulation.

42.010 Purpose. The seismic study combining (-SS) zone is intended to be applied to parcels of land identified as a Seismic Study Zone by the California Division of Mines and Geology pursuant to the Alquist-Priolo Act.

42.020 Special regulation. Development within the -SS zone shall be subject to the regulations set forth in Division 2, Chapter 7.5 of the California Public Resources Code, and the policies and criteria of the State Mining and Geology Board with reference to the Alquist-Priolo Special Studies Zones Act. The council, by resolution, may adopt regulations implementing this chapter.

Chapter 44

SPECIAL LOT SIZE COMBINING (-B) ZONE

Sections:

44.010 Purpose.

44.020 Lot regulations.

44.010 Purpose. The special building site combining (-B) zone and subzone thereunder are intended to be combined with any principal zone in locations where sound and orderly planning indicates that lot area requirements should be modified. The following regulations shall apply in any principal zone which is combined with a special building site combining or -B zone in lieu of the lot area requirements normally applicable in such principal zone.

44.020 Lot regulations. Lot regulations for -B zones are as follows:

A. Lot Area. The minimum lot area shall be indicated by a number following the -B zone symbol, which number specifies the minimum required site area in thousands of square feet.

B. Subdivision Prohibition. In any zone where the principal zone is combined with the symbol -B followed by the symbol -L, no further subdivision of existing parcels will be permitted.

Chapter 46

NATURAL HAZARD COMBINING (-H) ZONE

Sections:

46.010 Application of regulations--Use permit.

46.010 Application of regulations--Use permit. In any basic zone with which the (-H) district is combined, the following regulations shall apply in combination with those of the basic zone:

A. A use permit shall be required for all uses listed as permitted in the basic zone.

B. Use permits shall be conditional, to recognize and reduce natural hazards related to land slope, erosion, soil stability, seismic action, wildfire, periodic inundation and other similar natural hazards to life, property and the natural environment.

Chapter 50

PERFORMANCE STANDARDS

Sections:

50.010 Prohibition of dangerous or objectionable elements.

50.020 Performance standards procedure.

50.030 Enforcement provisions applicable to other uses.

50.040 Locations where determinations are made for enforcement of performance standards.

50.050 Performance of standard regulations.

50.010 Prohibition of dangerous or objectionable elements.
No land or building in any district shall be used or occupied in any manner so as to create any:

A. Dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard;

B. Noise or vibration, smoke, dust, odor or other form of air pollution;

C. Heat, cold, dampness, electrical or other disturbance;

D. Glare;

E. Liquid or solid refuse or wastes; or

F. Other substance, condition or element in such a manner or in such amount as to adversely affect the surrounding area or adjoining premises (referred to herein as "dangerous or objectionable elements"); provided, that any use permitted or not expressly prohibited by this ordinance may be undertaken and maintained if it conforms to the regulations of this section limiting dangerous and objectionable elements at the point of the determination of their existence.

50.020 Performance standards procedure. All uses specified in this ordinance are subject to performance standards, and uses accessory thereto are subject to the performance standards procedure specified in this chapter, unless either the commission or building official or director of planning has reasonable grounds to believe that the proposed use is likely to violate performance standards, in which event the applicant shall comply with performance standards procedure.

50.030 Enforcement provisions applicable to other uses. Even though compliance with performance standards procedure in obtaining any permit is not required for a particular use, initial and continued compliance with performance standards is required of every use, and provisions for enforcement of continued compliance with performance standards shall be invoked by the Commission against any use if there are reasonable grounds to believe that performance standards are being violated by such use.

50.040 Locations where determinations are made for enforcement of performance standards. The determination of the existence of any dangerous and objectionable elements shall be made at the location of the use creating the same and any points where the existence of such elements may be more apparent (in this or-

dinance referred to as "at any point"); provided, however that the measurements necessary for enforcement of performance standards set forth in Section 50.050, subsections C, D, F and I shall be taken at different points in different districts in relation to the establishment or use creating the element being measured (in this ordinance referred to as "point of measurement"), as follows:

A. In any district except the M-H district: At the lot line of the establishment or use;

B. In the M-H district: Five hundred feet from the establishment or use, or at the boundary or boundaries of the district if closer to the establishment or use, or at any point within an adjacent district, except for M-H or M-L districts.

50.050 Performance of standard regulations. The following performance standard regulations shall apply to all uses of property:

A. Fire and Explosion Hazards. All activities involving and all storage of flammable or explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion, and with adequate forfeiting and fire-suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any point.

B. Fissionable Radioactive or Electrical Disturbance. No activities shall be permitted which utilize fissionable or radioactive materials if their use results at any time in the release or emission of any fissionable or radioactive material into the atmosphere, the ground, or sewerage systems; and no activities shall be permitted which emit electrical disturbance affecting the operation at any point of any equipment other than that of the creator of such disturbance.

C. Noise. At the points of measurement specified in Section 50.040, subsections A and B, the maximum sound-pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table I, after applying the correction shown in Table II. The sound-pressure level shall be measured with a sound level meter and associated octave band analyzer, conforming to standards prescribed by the American Standards Association. American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, N.Y. and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American

Standards Association, Inc., New York, N.Y., shall be used.

Table I

Frequency Range Containing Octave Bands in Cycles Per Second	Octave Band Sound-Pressure Level In Decibels re 0.0002 dyne/cm ²
20-300	60
300-2400	40
above 2400	30

If the noise is not smooth and continuous and is not radiated between the hours of ten p.m. and seven p.m., one or more of the corrections in Table II shall be applied to the octave band levels given in Table I.

Table II

Type of Location of Operation or Character of Noise	Correction in Decibels
1. Daytime operation only	+5
2. Noise source operate less than:	
a. Twenty percent of any on-hour period	+5
b. Five percent of any one-hour period (apply one of these corrections only)	+10
3. Noise of impulsive character, such as hammering	-5
4. Noise of periodic character, such as humming or screeching	-5
5. Property is located in one of the following districts and is not within 500 feet of any R district:	
a. Any C district of M-L district	+5
b. Any A district or M-H district	+10

D. Vibration. No vibration shall be permitted which is discernible without instruments at the points of measurement specified in this section.

E. Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyrighted in 1954 (being a direct facsimile reproduction of a standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible grey smoke of a shade equal to No. 3 on such chart may be emitted for four minutes in any thirty

minutes.

F. Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air to four volumes of clean air, at the points of measurement specified in subsections A or B of Section 50.040, or at the point of greatest concentration. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is established as a guide in determining such quantities of offensive odors, Table III, Odor Thresholds, in Chapter 5, Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists, Association, Inc., Washington, D.C.

G. Fly Ash, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property, or which can cause any excessive soiling, at any point. No emissions shall be permitted in excess of the standards specified in Table I, Chapter 5, Industrial Hygiene Standards, Maximum Allowable Concentrations, of the Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C. In no event shall any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations, exceed 0.3 grains per cubic feet of the conveying gas at any point. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred degrees Fahrenheit and fifty percent excess air.

H. Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, shall emanate from any establishment or use so as to be visible at the points of measurement specified in Section 50.040. This restriction shall not apply to signs otherwise permitted by the provisions of this ordinance.

I. Liquid or Solid Wastes. No discharge at any point into any public sewer, private sewage disposal system or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements, shall be permitted, except in accordance with standards approved by the Environmental Protection Agency or the Tribe.

Chapter 52

OFF-STREET PARKING AND LOADING REGULATIONS

Sections:

- 52.010 Title and purpose.
- 52.020 Application.
- 52.030 Required parking spaces.
- 52.040 Relationship of required off-street parking to building site.
- 52.050 Location of parking on building site.
- 52.060 Design standards for off-street parking.
- 52.070 Credit for bicycle and motorcycle parking.
- 52.080 Collective provision of off-street parking.
- 52.090 Loading space requirements.
- 52.100 Elimination of on-site parking spaces prohibited.
- 52.110 Parking variance procedure.
- 52.120 Compact automobile spaces.

52.010 Title and purpose. The provisions of this chapter shall be known as the "off-street parking and loading regulations." The purpose of these provisions is to provide functionally adequate, aesthetically pleasing and secure off-street parking and loading facilities.

52.020 Application. All uses and portions thereof erected or constructed, or hereafter altered, converted or enlarged so as to increase the floor space of the structure, the number of dwelling units, rooms, beds or seating capacity of the structure or the number of employees working at the structures shall be provided with not less than the number of parking spaces required by and constructed in accordance with this chapter.

52.030 Required parking spaces. A. One-family or Two-family Dwellings, Multiple Dwellings, and Apartment Houses.

1. Two parking spaces for each one-family dwelling or four parking spaces for each two-family dwelling;

2. One and one-half parking spaces for each studio or efficiency dwelling unit and for each one or two bedroom dwelling unit located in a multiple dwelling or apartment house;

3. Two parking spaces for each dwelling unit having three or more bedrooms located in multiple dwellings and apartment houses;

B. Mobile Home Parks and Mobile Home in Planned Developments.

1. Two parking spaces for each mobile home unit. Parking spaces may be in tandem;

2. One additional parking space for every five mobile home units, to be used as guest parking, located no farther than two hundred fifty feet from the mobile home it is intended to serve shall be provided in standard mobile home parks, and one additional parking space for every ten mobile home units shall be provided adjacent to open space areas;

C. Hotels, Residential Hotels, Apartment Hotels, Resort Hotels, Clubs, Lodges, and Boardinghouses.

1. One parking space for each of the first twenty individual guest rooms or suites;

2. One parking space for every two individual guestrooms or suites in excess of twenty;

D. Motels and Tourist Courts. One parking space for each dwelling unit in a motel or tourist court;

E. Recreational Vehicle Parks.

1. One parking space for each recreational vehicle;

2. One parking space for each full-time employee of the park;

3. For the purpose of registration, spaces for temporary parking in proximity to the park office shall be provided in the following ratio:

100 occupant spaces	---	3 spaces
200 occupant spaces	---	6 spaces
300 occupant spaces	---	8 spaces
up occupant spaces	---	10 or more spaces;

F. Hospitals, Mentally Retarded Facilities, Psychiatric Facilities, Rest Homes, Sanitariums and Institutions. One parking space for every two beds;

G. Auditoriums, Theaters, Gaming Facilities, and Similar Places of Public Assembly. One parking space for every four seats. A "seat" means thirteen lineal inches of seating space when seats consist of benches or pews. For auditoriums without permanent seats, a "seat" means seven square feet of floor area;

H. Elementary and Junior High Schools.

1. One parking space for each employee, plus thirty additional parking spaces for elementary and junior high schools;

2. Auditorium parking shall be provided in accordance with subsection G of this section, provided that playground area available for parking purposes may be used to satisfy this requirement;

I. High Schools.

1. One parking space for each employee, plus one parking space for every two students in the eleventh and twelfth grades in the high school plus twenty additional parking spaces;

2. Auditorium parking shall be provided in accordance with subsection G of this section, provided that the number of spaces required for the auditorium may be reduced by the total number of spaces available for parking purposes in playground areas;

J. Colleges.

1. Main Campus. One parking space for each employee, plus one parking space for each student in the college (the total number of students to be determined as the maximum classroom capacity), plus twenty additional spaces;

2. Subcampuses and Off-campus Sites. One parking space for each employee, plus one space for every two students (the total number of students to be determined as the maximum classroom capacity), plus five additional spaces for subcampus administrative center;

3. Auditorium Parking. Auditorium parking shall be provided in accordance with subsection G of this section; provided that the number of spaces required for the auditorium may be reduced by the total number of spaces required by paragraph 1 of this subsection, and by the number of spaces available for parking purposes in playground areas;

K. Retail Business and Office Buildings. One parking space for every three hundred square feet of gross floor area, exclusive of floor area used for automobile parking space, in a retail business or office building, and one additional parking space for each staff members for medical and dental offices.

L. Industrial, Except Mini-Warehouse. One parking space for every one employee working on the largest shift, plus ten customer or visitors parking spaces.

M. Wholesale, Storage Buildings and Warehouses. One parking space for every five hundred square feet of gross floor area.

N. Institutions of an Educational, Philanthropic and Charitable Nature. For such institutions as may offer instruction, training or learning opportunities for students, trainees or participants, one parking space for each administrator, instructor or employee, plus one space for every two students, trainees, or participants; or one parking space for every three hundred square feet of gross floor area, whichever requires the greatest number of parking spaces.

O. Swap Meets, Stalls, or Uses Not Enclosed in Buildings. One parking space for every three hundred square feet of gross open area or one parking space per stall, whichever shall result in the greatest number of parking spaces. Areas used to meet the parking space requirements of this subsection shall not be counted in the gross open area.

P. Other Uses. For any use not specified above, one parking space for every two employees working on the largest shift or more parking space for every three hundred square feet of gross floor area, exclusive of floor area used for automobile parking space, whichever requires the greatest number of parking spaces.

Q. Use Permit-parking Condition. A greater number of off-street parking and/or loading spaces may be required by the planning commission as a condition of a use permit.

52.040 Relationship of required off-street parking to building site. All required parking spaces shall be located on the same lot or building site with the use they are intended to serve; unless the site on which they are located meets one of the following conditions:

A. There is a traversable pedestrian route, not more than four hundred feet in length, over and along public streets or walkways, or permanently established easements between the building or structures it is to serve and the use of the property upon which the parking spaces shall be constructed shall be secured by a written lease.

52.050 Location of parking or building site.

A. Covered Parking. Covered or enclosed parking spaces may be located anywhere on a building site where a structure may be located.

B. Open Parking. Except as provided in subsection C, open parking spaces shall be outside the ultimate right-of-way of any street and shall not be located within any required front or side yard.

C. Exceptions. A use permit may specify the location of parking in areas other than as provided in subsection B.

52.060 Design standards for off-street parking. Off-street parking spaces and areas shall meet the following design standards:

A. Size and Access. An off-street parking space shall be an unobstructed space or area other than a street or alley, not less than nine feet wide, twenty feet long and seven feet high. Parking lot plans shall conform to the standards tabulated below and are subject to design review.

52.070 Credit for bicycle and motorcycle parking. Where bicycle spaces or motorcycle spaces are provided for uses in commercial and industrial zones, parking spaces otherwise required pursuant to Section 52.030 may be omitted in accordance with the following provisions and subject to the following limitations:

A. One parking space may be omitted for each eight bicycle spaces provided.

B. One parking space may be omitted for each two motorcycle spaces provided.

C. Bicycle spaces shall measure at least two feet by seven feet and shall be located in groups of four and be equipped with locking devices for each bicycle. Bicycle spaces shall be located where access to such spaces is not hampered by physical barriers or parked vehicles.

D. Motorcycle spaces shall measure four feet by eight feet and shall be provided with adequate unobstructed maneuvering areas to permit easy access to the space.

E. In no instance shall credit for motorcycle or bicycle parking or combination thereof exceed five percent of the total required parking spaces.

52.080 Collective provision of off-street parking. A use permit may be approved to authorize collective off-street parking facilities serving two or more buildings or uses, or establishments in locations subject to commercial or industrial regulations, subject to the following requirements:

A. The total parking spaces in such collective off-street parking facilities shall not be less than the sum of the requirements for the individual buildings, uses or establishments computed separately in accordance with the requirements of Section 52.030 unless the planning commission specifies another amount as a condition of granting a use permit.

B. The permit may be conditioned upon the provision of landscaping, and other appropriate requirements.

52.090 Loading space requirements. All commercial and industrial buildings, hotels, hospitals and institutions hereafter erected, constructed, converted, established, or enlarged to increase their floor space, shall be provided with one loading space for the first ten thousand square feet of gross area or fraction thereof, and one additional loading space for each additional twenty thousand square feet of gross floor space or its fraction greater than ten percent.

A. Minimum Size. A loading space shall be not less than ten feet wide, thirty-five feet long, and fourteen feet high.

B. Access. A loading space shall afford adequate ingress and egress for trucks from a public street or alley.

52.100 Elimination of on-site parking spaces prohibited. No person shall erect, construct or hereafter alter, convert or enlarge any building or structure which eliminates any existing on-site parking spaces or otherwise would prevent the property from meeting the on-site parking requirements of the chapter.

53.110 Compact automobile spaces. For uses other than residential uses, up to twenty-five percent of the required parking spaces may be devoted to compact car spaces. Such compact spaces shall be clearly labeled for compact cars in accordance with the signing standards established by the Tribe, and grouped together in one or more locations or at regular intervals such that only compact vehicles can easily maneuver in the space. All compact spaces shall be a minimum of eight feet wide and sixteen feet long, measured along the angle of parking.

Chapter 54

SIGNS

Sections:

- 54.010 Purpose and findings.
- 54.020 Definitions.
- 54.030 Sign permit required.
- 54.040 Consent of owner.
- 54.050 Permit--Application.
- 54.060 Permit--Fees.
- 54.070 Permit--Planning commission review and approval required.
- 54.080 Permit--Issuance.
- 54.090 Violation--Abatement--Penalties.
- 54.100 Double permit fee when.
- 54.110 Signs exempted.
- 54.120 Prohibited signs.
- 54.130 Placing sign on public streets or public area.
- 54.140 Placing signs on poles, trees, etc.

- 54.150 Signs which block, screen or interfere.
- 54.160 Interference with traffic.
- 54.170 Residential districts.
- 54.180 Real estate signs.
- 54.190 Projecting signs.
- 54.200 Freestanding signs.
- 54.210 Wall signs.
- 54.220 Political signs.
- 54.230 Special permits.
- 54.240 Combinations of signs.
- 54.250 Master signing programs.
- 54.260 Classification of signs.
- 54.270 Construction and maintenance.
- 54.280 Nonconforming signs.
- 54.290 Modification of nonconforming signs.
- 54.300 Abandoned signs.
- 54.310 Change of use.
- 54.320 Destruction of signs.
- 54.330 Unsafe and unlawful signs.
- 54.340 Parking of advertising vehicles prohibited.

54.010 Purpose and findings. A. The purpose of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the designs, quality of materials, construction, location, electrification and maintenance of all signs and sign structures not located within a building except exempted signs.

B. The findings and justifications for the various regulations, relative to signs and outdoor advertising signs, as contained in this chapter are as follows:

1. To provide a reasonable system of controls for signs, integrated within this ordinance;
2. To encourage signs which are well-designed and pleasing in appearance and to provide incentive and latitude for variety, good design relationship and spacing;
3. To encourage a desirable Rancheria character which has a minimum of overhead clutter;
4. To enhance the economic value of the Rancheria and each area of it, through the regulation of such things as size, location, design and illumination of signs;
5. To attract and direct persons to various activities and enterprises, in order to provide for the maximum public convenience;
6. To encourage signs which are compatible with adjacent land uses; and

7. To reduce possible traffic and safety hazards through good signing.

C. It is recognized that the attractiveness of the Rancheria is an important factor of the general welfare of the Tribe and that reasonable control of signs is in the public interest.

54.020 Definitions. The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

A. "Building face" means and includes the general outer surface of a main exterior wall of a building. For example, a building whose plan is rectangular has four main exterior walls and four building faces.

B. "Directional signs" means a sign that directs, points or guides; e.g., "one-way parking," etc.

C. "Freestanding sign" means and includes any sign standing on the ground. Such signs are usually, but not necessarily, supported from the ground by one or more poles or posts or similar uprights, with or without braces.

D. "Frontage" means and includes the front of a single-use parcel or commonly used parcel facing toward a public street or public right-of-way. This does not mean the fronts of individual businesses occupying a single parcel.

E. "Marquee" means and includes any permanent roofed structure attached to and supported by a building and projecting over public walkways or rights-of-way.

F. "Projecting sign" means and includes any sign, other than a wall sign, which is suspended from or supported by a building or wall and which projects outwards therefrom. Any sign suspended under a marquee, porch, walkway covering or similar covering structure and in a place approximately perpendicular to the wall of the adjoining building shall be deemed to be a projecting sign.

G. "Roof sign" means and includes any sign erected upon or over the roof or parapet of any building, including the roof of any porch, walkway covering or similar covering structure, and supported by or connected to the building or roof.

H. "Sign" means any object or device or part thereof situated outdoors, and which object or device or the effect produced by it may be seen by persons upon public rights-of-way or in public areas and which is used to advertise, announce,

identify, declare, demonstrate, display, instruct, direct, or attract attention by any means, including words, letters, figures, designs, fixtures, colors, motion or illumination. A sign includes window signs, cloth banners, balloons, festoon lighting, painted signs, vehicle advertising signs, vehicle business signs, and also includes the advertising structure when the context so requires. The United States flag, or any governmental flag, properly displayed in an approved manner, patriotic bunting, and donor or memorial plaques are not included in this definition, or controlled by this chapter.

I. The "sign area" of a sign without a border placed on the wall of a building shall be computed by enclosing the entire sign within sets of parallel lines touching the outer limits of the sign message and computing the area thus enclosed. The "area" of other signs shall be calculated by adding the outer dimensions of all faces capable of presenting a sign message including the standard and frame.

J. "Special, temporary, or promotional sign" means and includes any sign constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light material, with or without frames, and intended to be displayed outside for no more than four nonconsecutive thirty-day periods in a calendar year.

K. "Off-premises sign" means any sign identifying a use, facility, service or product which is not located, sold or manufactured on the same premises as the sign.

54.030 Sign permit required. It is unlawful for any person, firm, or corporation to authorize, erect, construct, maintain, move, alter, change, place, suspend or attach any sign on any trust land within the Rancheria without first obtaining from the planning commission or its designated representative, a written permit to do so, paying the fees prescribed therefor, and otherwise complying with all the applicable provisions of this chapter.

54.040 Consent of owner. No person shall erect any sign without first obtaining and filing with the planning director the written consent of the owner, lessee, or person having possession of the property upon which sign is situated.

54.050 Permit--Application. An application for a permit for each sign shall be made to the planning commission or its designated representative.

54.060 Permit--Fees. The planning commission or its designated representative shall charge a sign permit fee for every authorized sign on trust land within the Rancheria. The amount of the fee shall be fixed by resolution of the council.

54.070 Permit--Planning commission review and approval required. All signs and sign structures proposed in connection with new construction, or additions or alteration(s) of a building shall be reviewed and approved by the planning commission. Prior to the issuance of any sign permit by the planning director, the planning commission shall determine that any signing requested be in keeping with the building design, location, and good sign design. Otherwise, the planning director shall have the authority to review and approve all signs and sign structures not involving new construction, additions or alterations(s) of a building.

54.080 Permit--Issuance. If the planning director is satisfied that the application for permit of the proposed zoning sign conforms to the requirements of this chapter and the zoning ordinance, and that the fee prescribed by Section 54.060 has been paid, the planning director shall issue the requested permit. The applicant shall obtain all building and electrical permits as may be required by the planning commission or its designated representative.

54.090 Violation--Abatement--Penalties. Any sign on trust land within the Rancheria which fails to meet the requirements of this chapter or other applicable tribal ordinance, or for which a permit has been obtained in accordance with this chapter shall be subject to abatement through civil legal proceedings as a nuisance or, in the alternative, shall be deemed an infraction punishable by fine as provided by ordinance adopted by the Council.

54.100 Double permit fee when. The application fee for a sign permit shall be doubled when the installation of a sign is commenced before obtaining a permit therefor, unless otherwise ordered by the planning department. Provisions of this section shall not limit other methods of enforcement in this chapter.

54.110 Signs exempted. This chapter shall not apply to the following types of signs:

A. Directional, warning or information signs required or authorized by law which are erected by federal, or tribal authorities;

B. Official notices issues by any federal or tribal court, public body or officer and posted in the performance of a public duty;

C. Danger signs, and signs erected by public utilities indicating danger or aiding service or safety;

D. "No trespassing," "no parking" and similar warning signs;

E. Flags, emblems and insignia of a nation or political subdivision;

F. Commemorative signs of plaques of recognized historical organizations;

G. Temporary signs including displays of a civil, patriotic, political, religious or charitable nature;

H. Signs on licensed commercial vehicles, provided that such vehicles are not used or intended to be used as portable signs;

I. Small signs depicting trading stamps offered, credit cards accepted, notices of services required by law, trade affiliations, and the like, attached to any building or freestanding sign structure;

J. Signs on awnings or removable canopies not permanently attached to or built as part of a building, provided that the sign copy is limited to name, occupation, street address, telephone number, date of establishment, and other comparable copy of a nonadvertising nature, which may relate to one or more separate establishments;

K. Temporary window signs constructed of paper, cloth or similar expendable material;

L. Signs advertising the price of automotive fuel (gasoline);

M. Promotional signs may be allowed for any business to promote special commercial activities such as clearance sales or grand openings, for no more than four nonconsecutive thirty-day periods in a calendar year.

54.120 Prohibited signs. The following signs are prohibited:

A. Rotating, Moving, Flashing, Changing, Reflecting or Blinking Signs. Signs which rotate, move, flash, reflect, blink, or appear to do any of the foregoing shall be prohibited unless required by law or utilized by a proper governmental agency, such as the Tribe in the conduct of tribal governmental gaming activities.

B. Off-premises Signs. Any sign which does not advertise a use being made, or name of the owner or user, or which does not advertise a product, an interest, service or entertainment available on the premises where said sign is located shall be prohibited unless otherwise authorized herein.

C. No permit for any sign shall be issued and no sign shall be constructed or maintained which does not comply with all provisions of this chapter.

54.130 Placing sign on public streets or public property. No person shall place, erect or maintain or cause the placing, erecting or maintaining of any sign, except as is permitted by the Tribe or federal government or agencies, upon any public right-of-way or public area, including streets, sidewalks, alleys, drainage ways, parkway areas between the sidewalk and curb and parks.

54.140 Placing signs on poles, trees, etc. No person shall attach or maintain any sign, poster or advertisement upon any public utility pole or structure, light pole, lamp, lamppost or tree.

54.150 Signs which block, screen or interfere. No sign structure shall be so located as to block another sign or block, screen, or interfere with access, walkways or structures on adjacent properties.

54.160 Interference with traffic. No sign shall be erected or maintained which:

- A. Interferes in any way with traffic; or
- B. Confuses traffic, or
- C. Presents any traffic hazard; or
- D. Obstructs traffic lights or traffic signs or utilizes any type of blinking or flashing light or lights or beacons.

54.170 Residential districts. No sign shall be erected in any residential district except as provided in this section:

A. Churches and Quasi-public Organizations. In all residential districts, churches and quasi-public organizations may erect signs, as permitted by this ordinance, on the premises identifying the premises or announcing activities thereon.

B. Number. In residential districts there shall be no more than one wall sign and one freestanding sign for each property.

C. Area. The total area of all signs shall not exceed fifteen square feet except for bed and breakfast facility sign.

D. Bed and Breakfast facilities. Bed and breakfast facility signs shall be limited to eight square feet.

54.180 Real estate signs. A sign not illuminated, to advertise the sale or lease of property on which it is displayed and not exceeding fifty square feet shall be lawful under this chapter.

54.190 Projecting signs. Every projecting sign shall comply with the requirements of this section.

A. Zone: CO, C1, C2, ML, MH, PF.

1. Area. No such sign shall exceed 15 square feet.

2. Height. No such sign shall extend above the top level of the wall upon or in front of which it is situated, or in the case of buildings which have slope roofs, above the roof ridge.

3. Location. No such sign shall be placed over or above any public sidewalk or public place unless it is situated under or on a marquee, porch, or similar covering structure.

4. Number. There shall be no more than one such sign per parcel.

54.200 Freestanding signs. Every freestanding sign shall comply with the requirements of this section.

A. Zones: CO, C1, C2, ML, MH, PF.

1. Area. Freestanding signs shall not exceed one square foot of sign area for each two feet of street frontage up to 75 square feet.

2. Height. The maximum height of such signs shall be twenty-five feet.

3. Location. Every sign shall be wholly on the lessee or assignee's property.

4. Number. There shall be no more than one such sign per parcel.

54.210 Wall signs. Every wall sign shall comply with the requirements of this section.

A. Zones: CO, C1, C2, ML, MH, PF.

1. Area. Wall signs shall not exceed one square foot of sign area for each foot of street frontage up to 200 square feet.

2. Height. No wall sign shall extend above the roof line of the building to which it is affixed.

3. Number. There shall be no more than four wall signs per parcel.

54.220 Political signs. Applicants for political signs, as defined in this chapter, shall comply with the following requirements:

A. The applicant shall post a twenty-five-dollar cash bond with the Tribe to guarantee removal of the political signs.

B. Such signs shall not be nailed to trees, fence posts, or public utility poles and shall not be located in the public right-of-way.

C. No political signs shall be erected sixty days before the election to which they pertain.

D. All political signs shall be removed within ten days after the election date or the bond posted shall be forfeited and the Tribe shall use whatever part of the bond money as is necessary for removal. Any amount of the bond remaining shall remain the property of the Tribe.

E. The twenty-five-dollar bond requirement shall also apply to signs located at campaign or party headquarters.

F. No fee or permit shall be required for the right to erect political signs but the applicant, or his/her agent, shall file with the planning commission a map or sketch or otherwise adequately indicate where the signs will be erected.

G. Political signs are exempted from all other provisions of this chapter except Sections 54.130 and 54.140.

54.230 Special permits. Nothing contained in this chapter shall prevent the council from granting a temporary special permit or otherwise permitting, on such terms as it may deem proper, signs or the like advertising or pertaining to any civic, patriotic, or special event of general public interest taking place within the boundaries of the Rancheria, when it can be found that such signs will not be materially detrimental to the public welfare, interest or safety, nor injurious to adjacent property or improvements. Fees may be waived on approved permits. Signs must be removed ten days after the event.

54.240 Combinations of signs. On each parcel there shall be permitted the following combination of signs:

A. Where there is a freestanding sign, wall signs shall be permitted.

B. Where there is no freestanding sign, both wall signs and one projecting sign shall be permitted.

C. There shall be either a freestanding or projecting sign permitted, but not both.

54.250 Master signing program. A. General. In accordance with the provisions of this chapter, signs may be allowed in commercial and industrial districts and for quasi-public uses in any district as part of a comprehensive master program, notwithstanding that such signs do not conform to all the specific regulations applicable in general to freestanding signs, wall signs, and other signs allowed pursuant to this section. A master signing program is a voluntary, optional alternative to the general sign regulations, intended to encourage the maximum incentive and latitude in order to achieve variety and good design. Exceptions to the general sign regulations may include, but are not necessarily limited to, the number of signs, height, location, sign area, and illumination; provided, however, that notwithstanding the power of the planning commission to approve such specific exceptions, the master sign program shall be in substantial compliance with the general sign regulations and the planning commission shall find that each and all such exceptions will accomplish the general objectives of these regulations.

B. Application. A master signing program may be allowed only for a site (building improvements and the lot upon which located) which comes within at least one of the following separate uses;

1. One main building containing at least three separate uses;
2. One or more uses located above the ground floor of a main building;
3. At least two main buildings upon a lot with a separate use in each building.

C. Finding required. The planning commission shall, prior to the approval of a master signing program, make the following findings in regard to the design of the signs to be maintained upon the site:

1. Architectural style. That each sign is designed with an intent and purpose to relate the sign to the architectural style of the main building(s) upon the site, and to the extent not inconsistent with such style, that the

sign will be compatible with the style or character of existing improvements upon lots adjacent to the site;

2. That, consistent with such architectural style, each sign is designed to incorporate at least one of the predominantly visual elements, such as type of construction material, color or other design details. That any sign maintained upon a building have dimensions which are proportional to and visually balanced with the building facade of the side of the building upon which the sign is maintained;

3. Relationship to other signs. That each sign is well related to other signs maintained upon the master signing program site by the incorporation of not less than four of the following seven identified elements:

- a. Materials;
- b. Lettering of sign copy;
- c. Color;
- d. Illumination;
- e. Method used for structural support of attachment;
- f. Technical details of sign construction; and
- g. Shape of entire sign and its several components.

D. The planning commission may attach appropriate and reasonable conditions to any approval of the master signing program, including but not limited to, conditions which alter sign configurations, reduce the sign area, relocate signs upon the lot or buildings, or require other design modifications. The planning commission shall exercise a high degree of discretionary judgment in the review of a proposed master signing program and may decline to take action itself to approve, deny or conditionally approve any such program.

54.260 Classification of signs. Every sign erected or proposed to be erected shall be classified by the planning director in accordance with the provisions of this chapter. Any sign which does not clearly fall within one of the classifications provided in this chapter shall be placed in the classification which the sign, in view of its design, location and purpose, most nearly approximate.

54.270 Construction and maintenance. A. The appropriate sections of any building code hereinafter adopted by the Council shall apply to the construction of signs. Guy wires or horizontal struts shall not be used. Signs and sign structures shall be maintained at all times in a state of good repair, with all braces, bolts, and structural parts and supporting frames and

fastenings free from deterioration, rot, rust and loosening. Without limiting the foregoing, no person shall maintain or permit to be maintained on any premises owned or controlled by him/her any sign which is in a sagging, leaning, fallen, decayed, deteriorated or other dilapidated or unsafe condition.

B. Inspection. The planning director or his authorized representative may at any time make such inspections as may be necessary or appropriate to ascertain whether any sign will comply or is complying with this chapter and other applicable laws.

54.280 Nonconforming signs. All signs existing on the effective date of this chapter which do not conform to the standards set forth in this chapter shall be deemed to be legally nonconforming.

54.290 Modification of nonconforming signs. No nonconforming sign shall be in any manner altered, reconstructed, moved or its face changed without being made to comply in all respects with this chapter. Normal maintenance or repair of any nonconforming sign is not prohibited by this section.

54.300 Abandoned signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him/her any sign which has been abandoned. Any such sign shall promptly be abated by the owner, lessee or assignee of the parcel that the sign is located. Any sign which is located on property which becomes vacant and unoccupied for a period of three months or more, and any sign which was erected for an occupant or business unrelated to the present occupant or his/her business, and any sign which pertains to a time, event or purpose which no longer obtains, shall be presumed to have been abandoned.

54.310 Change of use. Any sign for a use which has been changed, and where new sign copy is required, shall be made to conform with the regulations contained in this chapter upon its replacement, repair or reconstruction.

54.320 Destruction of signs. If a sign is damaged or requires repairs exceeding fifty percent of its market value, it either shall be brought into conformity with this chapter or removed.

54.330 Unsafe and unlawful signs. Whenever a sign is found to be erected or maintained in violation of any provision of this chapter or of any other ordinance or law, the planning director shall order that such sign be altered, repaired, reconstructed, demolished or removed as may be appropriate to abate such condition. Any work required to be done shall, unless a different time is specified, be completed within fourteen days of the date

of such order. Failure, neglect or refusal to comply with such order of the planning director shall be sufficient basis for the revocation of any permit granted under this chapter and shall constitute a separate offense. In addition to any other remedies provided by law, the planning director shall have the power and authority summarily to remove, or cause to be removed, at the owner's expense, any sign erected or maintained in violation of the provisions of this chapter.

54.340 Parking of advertising vehicles prohibited. No person shall park any vehicle which has attached thereto or suspended therefrom any advertising sign on the street or on private property to display, demonstrate, advertise or attract the attention of the public.

Chapter 56

YARD AND HEIGHT EXCEPTIONS AND MODIFICATIONS

Sections:

- 56.010 Purpose.
- 56.020 Height limits.
- 56.030 Front yard.
- 56.040 Accessory structures--Generally.
- 56.050 Accessory structures--Generally.
- 56.060 Side yards.
- 56.070 Rear yard exceptions and modifications.
- 56.080 Projections into required yards.

56.010 Purpose. This chapter shall clarify and recognize logical and acceptable standards for encroachments into required yards, and height restrictions. The requirements specified within this ordinance shall be subject to the terms of this chapter.

56.020 Height limits. Height limitations set forth elsewhere in this ordinance shall not apply to:

A. Barns, silos or other farm buildings or structures on farms, provided these are not less than fifty feet from every lot line; church spires, belfries, cupolas and domes; monuments, water towers, fire and hose towers, observation towers; distribution and transmission lines, towers and poles; windmills, chimneys, smokestacks, flagpoles, radio towers, masts and aerials; parapet walls extending not more than four feet above the limiting height of the buildings; and outdoor theater screens, provided such screens contain no advertising matter other than the name of the theater;

B. Places of public assembly in churches, schools and

other permitted public and semipublic buildings, provided that these are located on the first floor of such buildings; and provided further, that for each one foot by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yard required for the highest building otherwise permitted in the district;

C. Bulkheads, elevators, penthouses, water tank monitors and scenery lofts, provided no linear dimension of any such structure exceeds fifty percent of the corresponding street lot line frontage; or towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders, or other structures where the manufacturing process requires a greater height; provided, however, that all such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five percent of the area of the lot and shall be distant not less than twenty-five feet in all parts from every lot line not a street lot line.

56.030 Front yard. The following exceptions and modifications shall apply to the front yard requirements provided in this ordinance.

A. In any R district, where the average depth of at least two existing front yards on lots within one hundred feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in the ordinance, the required depth of the front yard on such lot may be modified. In such case, the front yard shall not be less than the average depth of the existing front yards, or the average depth of existing front yards on the two lots immediately adjoining, or in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of a front yard on any lot shall be at least ten feet and need not exceed twenty-five feet.

B. In any R district where the natural grade of a lot within the required front yard has an average slope, normal to the front lot line at every point along such line, of such a degree or percent of slope that it is not practicable to provide a driveway with a grade of twelve percent or less to a private garage conforming to the requirements of this ordinance, such garage may be located within such front yard, but not be in any case closer than six feet to the street line.

C. Where the building setback lines shown on a final recorded subdivision map approved by the Council in accordance with an ordinance adopted by the Council provide for a different front yard than required in this ordinance, then the front yard shall be as shown by the setback lines on the final map.

56.040 Accessory structures--Generally. Accessory structures shall meet the following requirements:

A. Attached or Detached Construction. An accessory structure may be erected detached from the main building, or may be erected as an integral part of the main building, or it may be connected therewith by a breeze way or similar structure.

B. Attached to Main Building. An accessory structure (not including a patio structure) attached to the main building shall be made structurally apart and have a common wall with the main building, and shall comply in all respects with the requirements of the ordinance applicable to the main building.

C. Corner Lots. No accessory structure within twenty-five feet of the common property line on a reverse corner lot shall be placed any closer to the side street property line than the required front yard of the adjoining lot, and in no case shall any part of such accessory structure be nearer to the side street lot line than the least width of the side yard required for the main building to which it is accessory.

D. Dwelling Use Restricted. Accessory structures shall not be used for dwelling purposes.

E. Lot Coverage. Accessory structures shall not exceed thirty percent of the area of the minimum required rear yard.

56.050 Accessory structures--Side and rear yards. The following exceptions and modifications shall apply to the side and rear yard requirements:

A. Yard Requirements. Unless an accessory structure is attached to the main structure, it shall be located at least six feet from any structure on the same lot. A detached accessory structure, except for accessory storage structures of one hundred square feet or less as specified in G below, shall be located no closer than three feet of any interior lot line.

B. Patios and decks not more than thirty inches above grade may be located in side and rear yards to within three feet of any interior lot line.

C. Patio structures may encroach into required rear yards to within ten feet of the rear lot line.

D. Additions to non-conventional principal residential structures may encroach into required rear or side yards or patio areas.

E. Patio structures for non-conventional principal residential structures may encroach to within three feet from any lot line, provided that there remains an open space equal to seventy percent of the otherwise required yard area into which such encroachment is made.

F. Lath-covered structures for non-conventional principal residential structures may encroach to within three feet from the property line, provided that the lath cover is uniformly open.

G. Exceptions. A detached accessory structure may be located closer than three feet of any interior side or rear property line in a residential district, provided that the following conditions are met:

1. It shall be located at least six feet from any structure on the same lot;

2. It shall not exceed a maximum overall height of six feet, six inches;

3. It shall be limited to a maximum gross floor area of one hundred square feet;

4. Fire-resistive materials shall be installed and a necessary permit obtained in accord with any building code hereinafter adopted by the Council.

56.060 Side yards. The following exceptions and modifications shall apply to the side yard requirements provided in this ordinance:

A. A side yard along the side street lot line of a corner lot shall have a width of not less than one-half of the required depth of the front yard.

B. Where the building setback lines shown on a final recorded subdivision map provide for a different side yard on a corner lot than required in this chapter, then the side yard shall be shown by setback lines on the map.

56.070 Rear yard exceptions and modifications. The following are exceptions and modifications shall apply to the rear yard requirements provided herein:

A. Covered patios in residential districts may encroach into otherwise required rear yards to within ten feet of the rear lot line, provided that there remains an open area equal to one hundred and twenty percent of the area obtained by multiplying the otherwise required rear yard dimension by the lot width.

B. In no instance shall the combined square footage of both accessory structures and building additions occupy more than thirty percent of the required rear yard.

C. No additional projecting into the required rear yard shall exceed one story in height.

D. Corner and Reverse corner Lots. Garages or carports attached to a main structure may encroach into a required rear yard to within five feet of a rear property line, provided that the additional and any other structure does not occupy more than thirty-five percent of the required rear yard, and provided further that all applicable building and fire codes hereinafter adopted by the Council are complied with.

56.080 Projections into required yards. Certain architectural features may project into any required front yard, rear yard, or required side yard as follows:

A. Conices, canopies, eaves, or other similar architectural features, may project a distance not exceeding two feet;

B. Porches, stairways and landings, when they serve as a required means of egress from any structure, may project a distance not to exceed three feet;

C. An uncovered stair and necessary landings may project a distance not to exceed three feet, provided such stair and landing shall not extend above the entrance floor of the building, except for a railing not exceeding three feet, six inches in height;

D. Bay window, balconies and chimneys may project a distance not exceeding two feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.

Chapter 58

FENCES AND HEDGES

Sections:

- 58.010 Purpose.
- 58.020 General height limitations
- 58.030 Special height limitations.
- 58.040 Fencing material provisions.
- 58.050 Fences on lots used for commercial, industrial or institutional purposes.

58.010 Purpose. The purpose of this chapter is to provide standards for the height of fences and hedges.

58.020 General height limitations.

A. Except as provide in Section 58.050, no fence shall be erected, altered or place, and no hedge shall be allowed to grow so as to exceed a height of eight feet in the required rear yard or required side yard lot.

B. Except as provided in sections 58.030 and 58.050, no fence shall be erected, altered or places, and no hedge shall be allowed to grow so as to exceed the height of forty-eight inches in the required front yard of a lot.

58.030 Special height limitations. Notwithstanding the general height limitations on fences and hedges imposed by Section 58.020, the following more restrictive height limitations imposed by this section shall be applicable to the special circumstances described herein:

A. Corner Lots:

1. On corner lots (including reversed corner lots), no fence or hedge exceeding forty-eight inches in height shall be erected, altered, placed or allowed to grow within five feet of the side street lot line;

2. On corner lots, within the triangular area bounded by the street lot lines and a line connecting such street lot lines twenty feet from their intersection, no fence, hedge or other obstruction shall be erected, altered, place or allowed to grow so as to exceed a height of thirty inches above the elevation of the top of the curb;

B. Multiple Dwellings. Private open space enclosures for multiple dwellings in yard areas adjacent to streets shall not be erected; altered or placed so as to exceed a height of six feet, except that any fence erected within five feet of a street property line shall not exceed four feet.

58.040 Fencing material provisions.

A. Fences With Finished Appearances. A fence adjacent to a public right-of-way which is designed with a finished appearance on one side shall be oriented so that the finished side faces such right-of-way.

B. Barbed Wire: Pointed and Electrically Charged Materials. No barbed wire, other sharp-pointed material, or electrically charged material shall be used in the construction

of a fence unless said material is at least eight feet above the ground level, except where used to contain livestock.

58.050 Fences on lots used for commercial, industrial or institutional purposes. Notwithstanding the general height limitation of Section 58.020, the following less-restrictive height and locational limitations shall apply to fences used for the purposes described herein:

A. Fences, Commercial and Industrial Lots. Open fences not in excess of ten feet in height may be erected on lots principally used for commercial or industrial purposes in any required rear or side yard, except where such yard abuts upon a street.

B. Fences, Agricultural Lots. On lots principally used for agricultural purposes, open fences in excess of four feet in height and less than six feet in height may be erected in any required yard where necessary for confinement of livestock or for security reasons.

C. Open Fences; Athletic and Institutional Facilities. Open fences which enclose school grounds, play grounds, tennis courts, swimming pools or other areas which are used for athletic purposes may exceed the height and location limitations of this chapter with the approval of the planning commission.

Chapter 60

LANDSCAPING

Sections:

- 60.010 Purpose.
- 60.020 Landscaping--Requirements.
- 60.030 Landscaping--Materials.

60.010 Purpose. The purpose of the chapter is to set minimum standards for landscaping required for the development of industrially and commercially zoned lands.

60.020 Landscaping--Requirements.

A. The required front yards for R-3, industrial and commercial zones, shall be landscaped, except for needed walkways and driveways, with a minimum of two square feet per foot of street frontage.

B. Required landscaping shall be visible from a public street.

60.030 Landscaping--Materials. All landscaping required by this ordinance shall meet the following standards:

A. Materials. Landscaping shall include the planting and maintenance of some combination of trees, ground cover, shrubs, vines, flowers or lawns, with the plant materials consisting of native species and/or drought-resistant plants. In addition, the combination or design may include natural features such as rock and stone, and structural features including but not limited to fountains, reflecting pools, art work, screens, walls and fences.

B. Timing and Maintenance. All required plantings shall be in place prior to use or occupancy of new buildings or structures. All required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscaping, buffering and screening requirements. All landscaping shall be maintained in a manner that will not depreciate adjacent property values or otherwise adversely affect adjacent properties.

Chapter 62

APARTMENT COMPLEX REGULATIONS

Sections:

- 62.010 Application.
- 62.020 Purpose.
- 62.030 General development criteria.

62.010 Application. The provisions of this chapter shall be known as the "apartment complex regulations". These provisions apply to uses classified as multifamily residential.

62.020 Purpose. The purpose and objective of this chapter is to set reasonable minimum standards for the development of well-designed apartment buildings or dwelling groups containing five or more dwelling units.

62.030 General development criteria.

A. Interior Access Drives. Interior private access drives shall be paved with a minimum of two inches of asphaltic cement over six inches of compacted base, and shall be paved to a width of not less than sixteen feet for one-way traffic, and twenty-five feet for two-way traffic. All corners shall have a minimum twenty-five foot radius.

B. Open Space

1. At least one substantial area of group usable open space shall be provided. Such area shall:

a. Total at least one hundred and fifty square feet per dwelling unit; required setbacks shall not be considered open space;

b. Be landscaped;

c. Include outdoor recreational facilities for both active and passive recreation.

2. Private open space areas shall be provided as follows:

a. Above Ground Level. Sixty square feet, the least dimension which is seven feet;

b. Ground Level. One hundred and twenty square feet, the least dimension of which is ten feet and which is enclosed by a view-obscuring fence four to six feet in height; a "private open space" shall be an area contiguous to the individual dwelling unit which allows its occupants the personal use of an outdoor space; each dwelling unit shall have at least one private open space;

c. Refuse Storage. There shall be adequate areas provided for refuse storage. Such refuse storage areas shall be screened from view by a six-foot-high solid fence, and shall be no more than one hundred feet from any residence;

d. Access. Each apartment complex shall have direct vehicular access from a publicly maintained street. This requirement does not apply to the expansion of an existing apartment complex when adequate access is obtained through the existing portion of the apartment complex;

e. Storage Areas. Storage areas of a minimum of fifty cubic feet shall be provided for each dwelling unit. These shall be of a type and design to provide secure storage, accessible from the ground level in the vicinity of resident parking stalls.

Chapter 64

MOBILE HOME PARK REGULATIONS

Sections:

- 64.010 Application
- 64.020 Purpose.
- 64.030 General development criteria.
- 64.040 Mobile home lot development criteria.

64.010 Application. The provisions of Sections 64.010 through 64.040, inclusive, shall be known as the "mobile home park regulations." These provisions apply to uses classified in the mobile home park use type. (See Chapter 06, Group 2d.)

64.020 Purpose. The purpose and objective of this chapter is to set reasonable standards for the development of well-designed mobile home parks.

64.030 General development criteria. Development criteria for mobile home parks includes:

A. Setbacks: Perimeter. Mobile homes and buildings within a mobile home park shall maintain the following setbacks:

1. A side yard and rear yard setback of at least fifteen feet from the exterior boundary of the mobile home park, suitably landscaped to provide effective screening;
2. A setback of twenty feet shall be maintained from the nearest edge of the street right-of-way;

B. Interior Access Drives. Interior private access drives shall be paved with a minimum of two inches of asphaltic cement over six inches of compacted base, and shall be paved to a width of not less than sixteen feet for one-way traffic, twenty-five feet for two-way traffic. All corners shall have a minimum twenty-five foot radius. Rolled concrete curb and gutter shall be provided along all drives:

C. Open Space.

1. At least one substantial area of group usable open space shall be provided. Such area shall:

- a. Total at least one hundred fifty square feet per dwelling unit; required perimeter setbacks shall not be considered open space;

- b. Be landscaped;

c. Include outdoor recreational facilities for both active and passive recreation;

D. Refuse Storage. There shall be individual refuse storage and pickup for each lot. In addition, there shall be one refuse-storage facility for every twenty-five lots; these shall be screened from view by a six-foot-high solid fence, and located a minimum of fifty feet from the nearest mobile home;

E. Emergency Access. Provisions shall be made for one emergency access from a publicly maintained street. This requirement does not apply to the expansion of an existing mobile home park when adequate access is obtained through the existing portion of the mobile home park.

64.040 Mobile home lot development criteria. Development criteria for mobile home lots includes:

A. Density of Occupation. Each mobile home lot shall be designed to be occupied by one mobile home and uses accessory thereto. The overall density of the mobile home park shall conform to R3 density requirements.

B. Setback From Interior Access Drive. Each mobile home lot shall have a front yard setback of not less than five feet extending the entire width of the mobile home lot. A front yard will be measured from the nearest element of the mobile home or any mobile home accessory structure to the closest edge of the interior access drive.

C. Side and Rear Yard Setbacks. Each mobile home lot shall have a side and rear yard of not less than five feet, with the exception that storage sheds shall be set back a minimum of six inches from the rear and side lot lines. A side or rear yard will be measured from the nearest element of the mobile home or any accessory structure, with the exception stated above, to the side or rear lot line respectively.

D. Access. All mobile home lots and recreation facilities shall have access only from an interior access drive.

Chapter 66

SUPPLEMENTAL PROVISIONS

Sections:

66.010 Purpose.

66.020 Accessory uses encompassed by principal use.

66.030 Residential uses.

66.040 Home occupation.

- 66.050 Conversion of dwellings.
- 66.060 Dwelling groups.
- 66.070 Temporary land uses.
- 66.080 Moving of buildings.
- 66.090 Public utility service.
- 66.100 Outside storage of trash.
- 66.110 Plan lines.

66.010 Purpose. The purpose of this chapter is to establish the relationship between adjacent uses and surrounding land uses and the criteria for regulating these uses.

66.020 Accessory uses encompassed by principal use. In addition to the principal and accessory uses expressly included in the use regulations, each zone subject to such use regulations shall be deemed to include such accessory uses which are specifically identified by these accessory use regulations, and such other accessory uses which are necessarily and customarily associated with, and are appropriate, incidental and subordinate to, such principal uses.

66.030 Residential uses. Subject to the restrictions and limitations specified, the following accessory buildings and uses shall be permitted in zones where residential uses exist as a principal permitted use, conditional use, or legal nonconforming use:

A. 1. Limited Agriculture. Incidental agricultural uses for the growth and harvesting of products including:

a. Raising of vegetable and flow gardens and the harvesting of fruit and nut bearing trees,

b. Greenhouses for the propagation of plants, not to exceed two hundred square feet in size,

2. Limited agriculture does not include the raising, breeding or keeping of any livestock on the premises other than household pets as defined in subsection B;

3. No sale of any agricultural products is permitted;

B. Household Pets. Animals or fowl ordinarily permitted in the house and kept for pleasure or company and not for profit, such as dogs, cats or canaries, but not more than two dogs, four months of age or older, and not to exceed three cats six weeks of age or older. Household pets may also include not more than twelve chinchillas, twelve hamsters, twelve white mice or other laboratory animals; provided, that not more than four kinds of household pets may be kept for any dwelling unit at any one time;

C. Small Animals. Not more than six adult rabbits and/or hares, and domestic fowl (hens only), providing not more than twelve of any one combination of such animals, and fowl may be maintained on a parcel;

D. Private Garage. An accessory building or portion of a main building designed for the storage of self-propelled passenger vehicles, camping trailers or boats belonging to the owners or occupants of the site;

E. Children's playhouses, patios, porches, gazebos, etc.;

F. Radio and television receiving antennas;

G. Boarding of one or two individuals;

H. Vehicle and Equipment Repairs or Fabrication. Repair, fabrication or other work on automobile, other vehicles or equipment on residential premises shall be subject to the following conditions and restrictions:

1. Such work shall be limited to those vehicles or equipment which may be stored within a private garage upon residential premises,

2. Such work shall be done only upon such vehicles or equipment which are owned by an occupant of the residential premises,

3. Such work shall be done only between the hours of eight a.m. and ten p.m.

4. Such work shall not be done in a public right-of-way,

5. Storage of parts for such vehicles or equipment on the premises shall be limited to those parts reasonably necessary for repair of the occupant's vehicle or equipment. Parts which cannot be conveniently located within an enclosed structure shall be screened from view from the public way and adjacent property, and may not occupy any required open space prescribed elsewhere in this ordinance,

6. Notwithstanding anything to the contrary herein, no such work shall be permitted which creates a nuisance, as defined by any ordinance enacted by the Council, or which otherwise tends to deteriorate the environment, peace, tranquillity and quiet enjoyment of the residents in the surrounding neighborhood, and

7. Flammable liquids shall not be used in any building or residential premises in connection with such work, and no welding or torch cutting may be done anywhere on such premises except by permit obtained from the fire marshal. All such work will be conducted in conformance with the applicable provisions of the uniform fire code.

66.040 Home occupation. A. A home occupation shall be defined as an activity which is clearly incidental and secondary to the use of a dwelling for residential purposes.

B. Home occupation shall be permitted only after a home occupation permit has been issued by the planning director, and a business license secured from the Secretary of the Council.

C. A home occupation shall not change the residential character of either the dwelling or the surrounding neighborhood.

D. A home occupation shall be conducted entirely within a dwelling, and shall not be permitted in any accessory structure or within any yard space.

E. A home occupation shall be operated and maintained only by a resident of the dwelling in which such home occupation occurs, and, there shall be no employees.

F. A home occupation shall not have a separate entrance from outside a dwelling.

G. A home occupation shall not involve the use of more than one room or fifty percent of the ground floor area of a dwelling unit, whichever is greater.

H. A home occupation shall not utilize mechanical or electrical equipment except that which is customary for purely domestic or hobby purposes.

I. No home occupation shall be operated in such a manner as to cause offense noise, vibration, smoke, or other particulate matter, odorous matter, heat, humidity, glare, electronic interference, or constitute a nuisance or safety hazard.

J. No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail and/or telephone; provided, however, that articles produced by the members of the immediate family residing on the premises may be sold upon the premises.

K. No outdoor storage of materials used to conduct a home occupation shall be permitted.

L. A home occupation shall not be permitted to generate vehicular traffic and parking beyond that normal to the zoning district in which it is located.

M. No sign, nameplate, or any other form of advertising shall be displayed on the premises in connection with any home occupation.

N. In no event shall a home occupation be interpreted to include an animal hospital or kennel; automobile and/or body and fender repairing; barber or beauty shop; business, dance or music school; doctor or dentist office; mortuary; private club; repair shop or service establishment; or restaurant or tourist home.

66.050 Conversion of dwellings. The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or households shall be permitted only within a zoning district in which a new building for similar occupancy would be permitted in accordance with the provisions of this chapter. Further, such a conversion shall be permitted:

A. Only after a zoning site plan review or conditional use permit has been obtained;

B. Only when the resulting occupancy will comply with the requirements governing new residential construction in the affected zoning district with respect to minimum requirements for lot size, setbacks, off-street parking, etc.

66.060 Dwelling groups. The following minimum distances between main or principal buildings in a dwelling group shall be as follows:

A. Minimum distance of twenty feet between one story parallel buildings, and thirty feet between two story parallel buildings, within increase of six feet of further separation for each additional story of building height.

B. Minimum distance of twelve feet between one or two story buildings in a single row, with an increase of six feet of further separation for each additional story of building height.

66.070 Temporary land uses. A. Pow Wows, carnivals, circuses, fairs, festivals, animal displays, amusement rides, and other similar gatherings shall be permitted in any nonresidential zoning district for a maximum ten day period of time upon the approval of a zoning permit application by the planning director.

B. Temporary sales offices, those which are open to the general public, shall be permitted within a residential subdivision for a maximum one-year period of time by the planning director.

1. If such offices are detached and separate from a dwelling group, for instance, a mobile home which has been converted for sales office purposes, they shall be located at least one hundred feet from an existing residential dwelling unit, and, shall be connected to on-site water and sewer utility hook-ups.

C. Christmas tree sales lots shall be permitted only within the administrative office (C0), community commercial (C1), and heavy commercial (C2) zoning districts. Further:

1. Such lots shall be permitted to be established by the planning director only between Thanksgiving and New Years;

2. Such lots shall be restricted only to the sale of Christmas trees;

3. Such lots shall be permitted to display signs only in accordance with the provisions of this ordinance.

D. Seasonal uses including the temporary display and sale of crop, fruits or vegetables shall be permitted in the administrative office (C0), community commercial (C1), and heavy commercial (C2) zoning districts by the planning director. Further, such uses shall:

1. Be permitted for no more than four nonconsecutive seven-day periods in a calendar year;

2. Such uses shall be permitted to display signs only in accordance with the provisions of this ordinance.

E. Peddlers and hawkers shall be permitted business uses in all zoning districts by the planning director. Further, such businesses shall:

1. Be permitted for no more than four nonconsecutive seven-day periods in a calendar year;

2. Such uses shall be permitted to display signs only in accordance with the provisions of this ordinance.

F. Temporary construction offices shall be permitted for a maximum one-year period of time by the planning director.

G. Temporary commercial and administrative office buildings may be permitted for a maximum two-year period of time only upon approval of a conditional use permit application by the planning commission.

66.080 Moving of buildings. A. No buildings whether now in use or formerly used for residential, commercial, or industrial purposes, shall be permitted to be physically moved from

a lot within the Rancheria, or, from a lot outside the Rancheria to a lot within the Rancheria, unless said building and its placement on a lot of record can meet all of the minimum provisions of the zoning district in which it is to be located.

B. Upon the filing of a zoning permit application to move a building, the planning director shall refer said application to the building official. He/she shall then be responsible for making an inspection of the building to be moved, and prepare a report concerning the integrity of such building and any improvements which will be required to be made. The building official may recommend denial of a zoning permit if, in his/her opinion, the construction, age, or condition of the building to be moved raises doubts as to its structural integrity, or, if the proposed building to be moved is sufficiently heavy to cause damage to any street or pavement within the Rancheria.

C. Prior to issuing a zoning permit, the planning director shall determine that the moving of said building will have no detrimental effect on the living environment of the surrounding neighborhood, or upon the property values in said neighborhood.

66.090 Public utility service. Public utility services are uses associated with minor public utility service. These uses shall be permitted in all zoning districts, provided that the utility services available service the neighboring area only:

- A. Electrical distribution lines;
- B. Minor incidental appurtenances to utility lines;
- C. Sewer lines;
- D. Telephone lines;
- E. Water or gas pipes, mains and conduits.

66.100 Outside storage of trash. A. With the exception of single-family detached, duplex and triplex residences, all outdoor storage facilities for fuel, raw materials, trash and/or waste products shall be enclosed by a four-sided screened fence or wall, or combination thereof, so as to completely conceal such matter from surrounding land uses.

B. All outside areas used for the storage of trash shall be constructed with a concrete floor and curb.

C. In no case shall such facilities be permitted to be placed within a required front yard.

D. All trash enclosure areas shall be surrounded by a five-foot-high fence or wall.

66.110 Plan lines. Whenever an official plan line has been established for any street, required yards shall be measured from such a line.

Chapter 68

ADULT ENTERTAINMENT REGULATIONS

Sections:

- 68.010 Findings and purpose.
- 68.020 Definitions.
- 68.030 Applicability.
- 68.040 Special regulations.
- 68.050 Wavier of locational provisions.

68.010 Findings and purpose. The council finds that adult entertainment businesses are recognized on the Rancheria as objectionable because of their very nature; that concentrations of such businesses tend to have a deleterious effect on adjacent areas and neighborhoods; and that special regulation of such businesses is therefore necessary to prevent the blighting and downgrading of adjacent areas. The purpose of this chapter is to prevent clustering of adult entertainment businesses and to prevent their location near residential areas and uses.

68.020 Definitions. As used in this ordinance and chapter, the following terms have the following meanings:

A. "Adult book store" means an establishment having as a substantial or significant portion of its stock in trade books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment having an area or section devoted to the sale or display of such materials.

B. "Adult entertainment business" means a business or establishment which offers services or entertainment to its patrons characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to any one or more of the businesses described in this section.

C. "Adult hotel" or "adult motel" means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

D. "Adult mini motion picture theater" means an enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis

on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

E. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or slug-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

F. "Adult motion picture theater" means an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

G. "Cabaret" means a nightclub, theater or other establishment which features live performances by topless dancers, bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

H. "Massage parlor" means any establishment offering for any form of consideration or gratuity, massages, alcohol rubs, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation.

I. "Model studio" means any business where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons paying such consideration or gratuity.

J. "Sexual encounter center" means any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

K. "Specified anatomical areas" means and includes the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and/or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

L. "Specified sexual activities" means any one or more of the following activities:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, use of excretory functions in the context of a sexual relationship, anilingus, buggery, coprophagy, corprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedrophilia, piquerisum, sapphism, or zooerasty; or

2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

3. Use of human or animal masturbation, sodomy, oral copulation, ejaculation; or

4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or

5. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain; or

6. Erotic or lewd touching, fondling or other contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

68.030 Applicability. The regulations contained in this chapter apply to all areas within the Rancheria where adult entertainment businesses are allowed under this ordinance, either as principal permitted uses or as conditional uses.

68.040 Special regulations. A. In any zone within the Rancheria where adult entertainment businesses regulated by this chapter would otherwise be allowed as principal permitted or conditional uses, it is unlawful to establish any adult entertainment business if its location is:

1. Within five hundred feet of any area zoned for residential use; or

2. Within one thousand feet of any other adult entertainment business; or

3. Within one thousand feet of any public or private school, park, playground, public building, church, any noncommercial establishment operated by a bona fide religious organization, or any establishment likely to be used or patronized by minors.

B. As used in this section, the term "establish any adult entertainment business" shall include the opening of such a business as a new business, the relocation of such business, or the conversion of an existing business location to any adult entertainment business use.

68.050 Waiver of locational provisions. A. Any property owner or his authorized agent may apply to the planning commission for a waiver of any locational regulations contained in Section 68.040. After proper notice and public hearing, the planning commission may waive any such regulation only if all of the findings are made and are supported by clear and convincing evidence:

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this chapter will be observed;

2. That the proposed use will not enlarge or encourage the development of a "blighted" area;

3. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood revitalization or renewal; and

4. That all applicable regulations of this ordinance will be observed.

B. The procedure for hearing before the planning commission permitted under subsection A shall be the same as that provided in Chapter 74 of this ordinance with, among other matters, the same notice requirements, the same right to appeal to the council and the same fees payable by the applicant.

Chapter 70

SITE PLAN REVIEW

Sections:

- 70.010 Purpose.
- 70.020 Site plan review requirement.
- 70.030 Application.
- 70.040 Planning commission findings and conditions.
- 70.050 Planning commission decision.
- 70.060 Appeal to the council.
- 70.070 Revisions to approved site plan.
- 70.080 Required street dedications and improvements.
- 70.090 Building permits.

70.010 Purpose. The purposes of site plan review are to enable the planning commission to make a finding that a proposed

development is in conformity with the intent and provisions of this ordinance and to guide staff in the issuance of building permits.

70.020 Site plan review requirement. A site plan will be submitted to the planning commission for approval in accordance with the provisions of this chapter before a building permit is issued for applications involving new construction, additions or structural alterations in all zoning districts.

70.030 Application. The applicant shall submit ten prints of the site plan to the planning director. The site plan shall be drawn to scale and shall indicate clearly and with full dimensions the following information:

- A. The lot dimensions;
- B. All buildings and structures and their location, elevation, size, height and proposed use;
- C. The yards and spaces between buildings;
- D. Walls and fences and their location, height and materials;
- E. Off-street parking, including the location, number of spaces, dimensions of the parking area, and internal circulation pattern;
- F. Pedestrian, vehicular and service access; points of ingress and egress; and internal circulation;
- G. Signs and their location, size and height;
- H. Loading, including the location, dimensions, number of spaces and internal circulation;
- I. Lighting, including the location, general nature and hooding devices, if any;
- J. Street dedications and improvements, as provided in Section 70.090;
- K. Drainage improvements;
- L. Landscaping, including the location and type;
- M. Fire prevention equipment and measures, including the location and type;
- N. Such other data as may be required to permit the planning commission to make the required findings.

70.040 Planning commission findings and conditions. A. Within fifteen days after submission of a complete site plan application, the planning commission shall approve, approve with such conditions as set forth in this section, or disapprove the site plan. In approving the site plan, the planning commission shall find that:

1. All the applicable provisions of this ordinance are complied with;

2. The following are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected, and there will be no adverse effect on surrounding property:

- a. Facilities, improvements and utilities,
- b. Vehicular ingress, egress and internal circulation,
- c. Setbacks,
- d. Height of buildings,
- e. Location of service use areas,
- f. Walls,
- g. Landscaping;

3. The proposed lighting is so arranged as to deflect the light away from adjoining properties;

4. The proposed signs will not by size, location, or lighting interfere with traffic or limit visibility;

5. That any conditions of approval are deemed necessary to protect the public health, safety and welfare. Conditions may include the following:

- a. Requiring special yards, spaces and buffers,
- b. Requiring fences and walls,
- c. Requiring enclosure of storage areas and limitation on out-of-door display of merchandise,
- d. Requiring grading, surfacing and drainage improvements,
- e. Regulation of points of vehicular ingress and egress,

- f. Regulation of signs,
- g. Requiring landscaping and maintenance thereof,
- h. Requiring maintenance of grounds,
- i. Requiring fire prevention equipment and measures,
- j. Regulation of noise, vibration, odors, electrical discharge, or interference,
- k. Regulation of lighting.
- l. Requiring street dedications and improvements, subject to the provisions of Section 70.090,
- m. Such other conditions as could make possible the development of the Rancheria in an orderly and efficient manner and in conformity with the intent and purposes set forth in this chapter.

B. In making such findings, the planning commission shall consult with other tribal or Bureau of Indian Affairs personnel as appropriate to assure that approvals will be consistent with established legislative policies relating to traffic safety, street dedications, street improvements and public safety.

70.050 Planning commission decision. The decision of the planning commission shall be final unless appealed to the council in accordance with the procedure specified in Section 70.060. The planning commission shall cause a copy of the site plan, with their decision and any conditions shown thereon or attached thereto, to be mailed to the applicant within ten days of the adoption thereof.

70.060 Appeal to the council. A. Procedure. The applicant may appeal the decision of the planning commission to the council by setting forth in writing the reasons for such appeal. Such appeal shall be filed with the secretary of the council within ten days after the date of mailing as shown by the postmark on the papers mentioned in Section 70.050. The appeal shall be placed on the agenda of the council's next regular meeting after the appeal is filed; provided, however, that if the appeal is filed within ten days of the next regular meeting of the council, the appeal shall be placed on the agenda of the council's second regular meeting following the decision of the planning commission. The council may affirm, reverse, or modify a decision of the planning commission; provided, however, that if a decision denying a site plan is reversed or a decision granting a site plan is modified, the council shall, on the basis of the record transmitted and such other evidence as may be submitted, make the findings prerequisite to the approval of a site plan as prescribed in Section 70.040.

B. Decision. The decision of the council shall be final. The council shall cause a copy of the site plan, with its decision and any conditions attached thereto, to be mailed to the applicant within ten days of the adoption thereof.

70.070 Revisions to approved site plan. Revisions by the applicant to an approved site plan shall be made pursuant to the procedure set forth in this chapter.

70.080 Required street dedications and improvements. Because of changes that may occur in a local neighborhood within the Rancheria due to increases in vehicular traffic generated by facilities requiring site plan review, and upon the principle that such developments should be required to provide street dedications and improvements as near as practicable in proportion to such increased vehicular traffic, but should not be required to provide such street facilities for nonrelated traffic, the following dedications and improvements may be deemed necessary by the commission and may be required as a condition to approval of any site plan:

A. When development borders or is traversed by an existing street:

1. Local streets and Cul-de-sacs. Widen and pave any existing street or road to its ultimate width as established by the council by ordinance; install curbs, gutters, drainage, sidewalks, street trees, street signs, street lights, required utilities and grade and improve from curb to any existing pavement;

2. Arterial and Collector Streets. Set back all facilities the required distance from ultimate property line as established by the council by ordinance; dedicate all necessary rights-of-way to widen the street to its ultimate width as established by any precise plan or where the ultimate right-of-way lines are otherwise determinable and the grades have been established or can be determined; install curbs, gutters, drainage facilities, sidewalks, street trees, street signs, required utilities, and grade and improve the shoulder and one traffic lane abutting the development. In no case shall a person be required to dedicate or improve the right-of-way for a distance in excess of thirty feet as measured from the ultimate right-of-way line;

3. Major Thoroughfares. Set back all facilities the required distance from the ultimate property line in accordance with the standards established by the council by ordinance; install curbs, gutters, drainage facilities, sidewalks, street trees, street signs, street lights and required utilities. No other dedications or improvements are required.

B. All frontage roads or new roads of any class made necessary by the development shall be dedicated and fully graded and improved with curbs, gutters, drainage, sidewalks, street trees, street signs, street lights, required utilities, grading and paving; provided, that where the street involved is indicated as an eventual major street or major thoroughfare upon any general plan adopted by the council, the amount of grading and paving shall not exceed that required for such existing streets under subsection A2 of this section. Where a frontage road is provided and improved, the improvements in subsection A2 of this section will not be required.

C. All improvements shall be to standards adopted by the council by ordinance.

70.190 Building permits. Before a building permit shall be issued for any building or structure that is subject to site plan review, the commission shall determine that:

A. The proposed building is in conformity with the site plan and conditions approved by the planning commission; and

B. All required dedications have been recorded; and

C. A letter has been furnished by the applicant from all appropriate utilities that all necessary utilities will be installed and that the utility companies will conform to all tribal ordinances; and

D. All required on-site (within the development area) and off-site (outside the development area) improvements shall have either been completed or, if not completed, the permittee shall have entered into an agreement with the Tribe to complete the work within one year from the date of the issuance of the permit. The commission may extend the completion date for one additional six-month period upon written request of the permittee, upon a showing of good cause therefor. Such an agreement shall be secured either by cash deposit with the Tribe, cash deposited in irrevocable escrow approved by the commission, or other financial security approved by the commission as the equivalent thereof. Such security shall be in the amount of one hundred percent of the estimated cost of completion to be determined by the commission. In the event such work is not completed with the period provided, or any extension thereof, the Tribe shall be authorized to take all necessary action to enforce the agreement, including the use of the security to cause the completion of all required improvements. Moneys deposited with the Tribe or in escrow may be partially released to the depositor by the commission during the progress of the work, so long as the same ratio of security is maintained on the deposit to secure all uncompleted work.

Chapter 72

NONCONFORMING USES AND STRUCTURES

Sections:

- 72.010 Purpose.
- 72.020 Continuing existing use.
- 72.030 Conditional use.
- 72.040 Maintenance and repairs.
- 72.050 Abandoned use or building.
- 72.060 Additions, extensions, enlargements and moving.
- 72.070 Change of use.
- 72.080 Restoration of damaged structures.
- 72.090 Change of zones.

72.010 Purpose. To regulate, reduce, or eliminate conflicts arising from the presence of any zoning district of land, uses or structures which do not correctly conform to the requirements of this chapter.

72.020 Continuing existing use. Any use, building, or structure, existing at the time of the enactment of this chapter, which does not conform with the provisions of this chapter for the zone in which it is located shall be deemed to be a nonconforming use and may be continued except as hereinafter specified.

72.030 Conditional uses. Any use legally existing on the effective date of the ordinance codified in this chapter which is listed as a conditional use in the zone where located, shall be and remain a nonconforming use until a conditional use permit is obtained as provided in this chapter.

72.040 Maintenance and repairs. A. Ordinary nonstructural repairs, alterations or maintenance may be made to a nonconforming structure as required to keep it in sound condition; provided, that such maintenance and repair does not exceed fifty percent of the market value in any five year period.

B. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition or any part of any building or structure declared unsafe by the building official.

72.050 Abandoned use or building. Any interruption of a nonconforming use, or the use of a nonconforming building which continues for twelve months or more or the expiration or termination of any lease or assignment of any nonconforming lot or structure located on the expired lease premises shall be deemed to be an abandonment of such use, and subsequent use of the lot or buildings shall be in accordance with the applicable provisions of this ordinance.

72.060 Additions, extensions, enlargements and moving. A. Uses. A nonconforming use shall not be moved, enlarged, or extended within the structure it occupies, nor shall it be enlarged or increased to occupy a greater area of land than that occupied by such use at the time the ordinance codified in this chapter was adopted unless a conditional use permit application has been approved by the commission.

B. Structures. A nonconforming structure may be structurally altered, enlarged, or extended only when such improvement will not exceed twenty-five percent of the building's market value and upon approval of a site plan review permit. Structural alterations or additions of more than twenty-five percent of the building's market value will require the processing and approval of a conditional use permit application by the commission.

72.070 Change of use. A. When authorized by the commission, in accordance with the provisions of this chapter, a nonconforming use which if determined by the commission to be of the same or a more desirable nature may be substituted for another nonconforming use.

B. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

72.080 Restoration of damaged structures. Any nonconforming building damaged more than fifty percent of its then reasonable replacement value at the time of damage by fire, flood, explosion, earthquake, or other act, shall not be restored or reconstructed and used as before such happening; but if less than fifty percent is damaged, it may be restored, reconstructed or used as before without compliance with zoning regulations then in force for the district in which it is located at the time of such act and provided that such reconstruction shall be started within one year of such act. For purposes of this section, the percentage of damage shall be calculated by dividing the estimated cost of restoring the structure as nearly as possible to its conditions prior to such occurrence by estimated market value of the structure (excluding the value of the land) immediately prior to the occurrence.

72.090 Change of zones. The foregoing provisions of this section shall also apply to any nonconforming uses and structures in zones hereafter changed to a more restrictive use or to zones hereafter established on areas not previously covered by this ordinance.

Chapter 74

USE PERMITS

Sections:

- 74.010 Granting--Conditions--Authority.
- 74.020 Application--Filing--Fee.
- 74.030 Hearing--Notice.
- 74.040 Application--Planning commission action.
- 74.050 Expiration.
- 74.060 Modifications.
- 74.070 Renewals.
- 74.080 Revocation.

74.010 Granting--Conditions--Authority. A request for a use permit may be granted subject to conditions, or denied by the commission for any use for which a use permit is permitted or required by these regulations, or for any use which, while not specifically enumerated in the regulations, is, in the opinion of the planning commission, similar to and compatible with the uses permitted in the zone in which the property is situated.

74.020 Application--Filing--Fee. Application for a use permit shall be filed with the office of the tribal secretary upon a form provided, and shall be accompanied by such information as may be required to describe fully the proposed use for which the permit is sought, and shall be accompanied by a filing fee in the amount as established by resolution of the council.

74.030 Hearing--Notice. A. Upon receipt of such application, the tribal secretary shall set the matter for public hearing as directed by the planning commission. Notice of the time and place of the hearing shall be given at least ten calendar days before the hearing, by prepaid U.S. mail notices to lessees and assignees of parcels or lots adjoining that of the petitioner, by publication once in a newspaper of general circulation sold on the Rancheria, and by posting such notice in conspicuous places on or close to the property affected.

B. The notice shall include a general explanation of the matter to be considered and a general description of the area affected.

74.040 Application--Planning commission action. Within thirty days of the conclusion of the hearing, the planning commission shall act on the matter. The planning commission, before granting a conditional use permit, shall make all of the following findings:

A. That the site for the proposed use is adequate in size and shape to accommodate the use of all yards, spaces, walls, and fences, parking, loading, landscaping and other features required by this ordinance to adjust the use with land and uses in the neighborhood;

B. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;

C. That the proposed use will have no adverse effect upon adjoining or other leases or assignments. In making this determination, the commission shall consider the proposed location of improvements on the site; vehicular ingress, egress and internal circulation, setbacks, height of buildings; walls and fences; landscaping; outdoor lighting; signs, such other characteristics as will affect surrounding property;

D. That the proposed use is consistent with the objectives and policies of any general plan adopted by the council;

E. That the conditions established by the commission for the conditional use permit are deemed necessary to protect the public health, safety and general welfare. Conditions may include the following:

1. Requiring special yards, spaces and buffers,
2. Requiring fences and walls,
3. Requiring enclosure of storage areas and limitations on and outside display of merchandise,
4. Regulation of grading, surfacing, and drainage improvements,
5. Regulation of points of vehicular ingress and egress,
6. Regulation of signs,
7. Requiring landscaping and maintenance thereof,
8. Requiring maintenance of grounds,
9. Requiring fire prevention equipment and measures,
10. Regulation of noise, vibration, odors, etc.
11. Regulation of time for certain activities,

12. Regulation of lighting,

13. Requiring a bond or deposit of money to assure faithful compliance and performance on the part of the applicant for the completion of street improvements and other facilities, or the removal of such facilities.

14. Requiring street construction and improvements;

F. Failure of the planning commission to act within the time set out in this section shall be deemed to be a denial of the application on that date. The action of the planning commission shall become final ten days from the date thereof, unless an appeal has been filed during the ten-day period.

74.050 Expiration. Any conditional use permit granted under this chapter shall become null and void if not exercised within the time specified in such conditional use permit or, if no date is specified, within one year from date of approval.

74.060 Modifications. At any time, during the effective periods of a use permit, an application may be made requesting a modification of use or conditions of issuance to a use permit. The application shall be filed in accordance with those provisions as established for a use permit. The fee for such request shall be established by resolution of the council.

74.070 Renewals. An application for renewal shall be filed prior to the expiration date of a use permit. Said application shall be filed in accordance with those provisions as established for a use permit. The fee for such request shall be established by resolution of the council.

74.080 Revocation. In any case where the terms and conditions to the granting of a conditional use permit are not complied with, the planning commission shall give notice to the holder of such conditional use permit of its intention to revoke the same. Proceedings for the revocation of a conditional use permit shall be conducted in the same manner as proceedings for action on the application therefor.

Chapter 76

VARIANCES

Sections:

- 76.010 Application--Filing procedure.
- 76.020 Hearing--Notice.
- 76.030 Hearing--Time limits.
- 76.040 Approval--Criteria.

76.050 Granting--Period of validity.
76.060 Revocation.

76.010 Application--Filing procedure. An application for a variance from the terms of the zoning ordinance may be filed. An application for a variance shall be filed in the office of the Tribal Secretary upon a form provided, and shall be accompanied by a filing fee as determined by resolution of the council, and shall include such other information as may be required to describe fully the proposed variance.

76.020 Hearing--Notice. A. Upon receipt of such application, the Tribal Secretary shall set the matter for public hearing. Notice of the time and place of the hearing shall be given at least ten calendar-days before the hearing, by prepaid U.S. mail notices to lessees and assignees to parcels or lots adjoining that of the petitioner, by publication once in a newspaper of general circulation sold on the Rancheria, and by posting such notice in conspicuous places on or close to the property affected.

B. The notice shall include a general explanation of the matter to be considered and a general description of the area affected.

76.030 Hearing--Time limits. A. Any such hearing may be continued from time to time, except that the commission shall act on the matter within sixty days of the original hearing date. Failure to act within such period shall constitute disapproval of the request.

B. The decision of the planning commission shall become final ten days after the date thereof unless an appeal has been filed during the ten-day period.

76.040 Approval--Criteria. A. The planning commission may grant a variance from the terms of this ordinance only upon a showing by the applicant that:

1. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;

2. The variances does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated;

3. The variance does not authorize a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property; and

4. The variance will be consistent with any General Plan adopted by the council and will not have an adverse effect on neighboring properties.

B. The planning commission shall make any variance granted pursuant to this section subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. The planning commission may make a variance subject to such other reasonable conditions as it may deem appropriate to carry out the purpose and intent of this ordinance.

C. No variance shall be granted unless and until the planning commission has made written findings of fact in support of its decision. The findings of fact shall demonstrate that the criteria set forth in subsection A have been met, shall be supported by substantial evidence in the administrative record, and shall be made a part of the official minutes of the planning commission. The applicant for a variance shall have the burden of providing that the criteria for the granting of a variance, as set forth in subsection A, have been met.

76.050 Granting--Period of validity. Unless otherwise expressly provided by the planning commission, a variance shall be granted for an indefinite period. However, the planning commission may grant a variance for a specified period of time.

76.060 Revocation. In any case where the terms and conditions to the granting of a variance are not complied with, the planning commission shall give notice to the holder of such variance of its intention to revoke the same. Proceedings for the revocation of a variance shall be conducted in the same manner as proceedings for action on the application therefor.

Chapter 78

AMENDMENTS

Sections:

- 78.010 Type--When to be made.
- 78.020 Application for amendment.
- 78.030 Accompanying fee, maps and data.
- 78.040 Calling of public hearing--Rezoning.
- 78.050 Notice of public hearing.

- 78.060 Action by commission on proposed amendments.
- 78.070 Submission of recommended amendment to council.
- 78.080 Action by Tribal Secretary--Notice of public hearing.
- 78.090 Findings by council.
- 78.100 Action by council--Change in commission recommendation.
- 78.110 Effect of denial of application.
- 78.110 Prezoning.

78.010 Type--When to be made. This ordinance may be amended by changing the boundaries of districts or by changing any other provision of this chapter whenever the public necessity, convenience and general welfare require such amendment.

78.020 Application for amendment. Amendments may be initiated by the council or the planning commission, or by an application of one or more lessees or assignees of property affected by the proposed amendment.

78.030 Accompanying fee, maps and data. An application by an individual for an amendment shall be accompanied by maps, drawings and data necessary to demonstrate that the proposed amendment is in general conformance with any general plan adopted by the council and that public necessity, convenience and general welfare require the adoption of the proposed amendment. An accurate legal description and scale of drawings of the land and existing buildings shall be submitted with the application. Such application shall be accompanied by a fee established by the Council by resolution.

78.040 Calling of public hearing--Rezoning. Upon the filing of an application pursuant to this chapter by any person, or upon initiation of an amendment by the council, the Tribal Secretary shall take appropriate steps to schedule and publish notice of a public hearing on the matter before the commission, any such hearing to be held as soon thereafter as the necessary studies and report can be completed by the planning director and necessary legal notice of the hearing can be accomplished, and subject to any rules of the commission relating generally to scheduling of such hearings; provided, however, that in the event any rezoning applied for by a person is determined to be not in general conformance with any General Plan adopted by the council, or if such conformance is doubtful, the application shall be placed on the commission agenda without a public hearing having been called thereon. If the commission decides that any such rezoning would be in conformance with such plan, and if it deems it is in the public interest, the commission may call a public hearing thereon.

78.050 Notice of public hearing. A. In the case of any public hearing called in accordance with the provisions of the preceding section, notice of the time and place of the hearing

shall be given by at least one publication in a newspaper of general circulation sold on the Rancheria and by mail or delivery to all persons, businesses, corporations or other public or private entities owning an assignment or lease within three hundred feet of the property which is the subject of the proposed zoning change, at least ten days prior to the public hearing. The names and addresses of such persons, businesses, corporations or entities as shown on the current tribal assignment or lease records shall be used for giving notice pursuant to this section.

B. In the event that the number of lessees or assignees to whom notice would be sent pursuant to subsection A is greater than one hundred, as an alternative to the notice required by subsection A, notice may be provided pursuant to this subsection. Such notice shall be given at least ten days prior to the hearing by either of the following procedures by placing an insert with any generalized mailing sent by any public agency to property owners in the area affected by the proposed amendment such as billings for services, etc.

78.060 Acting by commission on proposed amendments. If at the conclusion of any hearing, the commission decides to recommend amendment of this ordinance, the recommendation shall be made by motion carried by the affirmative votes of not less than a majority of the total members of the commission. No recommendation for amendment shall be made without a public hearing having been held thereon. No recommendation for amendment shall be made unless the commission adopts findings as follows:

A. The proposed amendment is required to protect the public health, safety and welfare.

B. Any other appropriate findings.

78.070 Submission of recommended amendment to council. A copy of any recommended amendment shall be submitted to the council, and shall be accompanied by a report of findings, summary of hearings, and recommendations of the commission.

78.080 Action by Tribal Secretary--Notice of public hearing. Upon receipt of a copy of any recommended amendment from the commission, the Tribal Secretary shall place the matter upon the agenda of the council at the earliest meeting practicable, having due regard to the rules of the council and time necessary for the giving of notice of public hearing if such notice is required. The Tribal Secretary shall schedule the matter for public hearing on the council agenda, and shall cause notice of the time and place of the hearing to be published in newspaper of general circulation sold on the Rancheria at least ten days prior to such hearing.

78.090 Findings by council. In order to amend this chapter, the council shall find as follows:

A. The proposed amendment is in general conformance with any general plan adopted by the council;

B. The public necessity, convenience and general welfare require the adoption of the proposed amendment;

C. Any other appropriate findings.

78.100 Action by council--Change in commission recommendation. A. The council shall hold a public hearing before adopting any ordinance which amends this chapter. Where a commission recommendation has been made, the council shall not make a change in such proposed amendment until the proposed change has been referred to the commission for a report and copy of the report has been filed with the council. When a council-proposed change in any proposed amendment is referred back to the commission, the failure of the commission to report within forty days after the reference or such longer period as may be designated by the council shall be deemed to be approval of the proposed change.

B. When it deems it to be for the public interest, the council may initiate an ordinance amending this ordinance. The council shall refer the matter to the commission for report. If the commission has not held a public hearing on the proposed amendment, it shall do so before making its report. The failure of the commission to report within forty days after the reference or such longer period as may be designated by the council shall be deemed to be approval of the proposed change or amendment.

C. No provision in this chapter shall be deemed to affect the authority of the council to adopt any temporary interim zoning ordinance or amendment thereto when such adoption is in the best interests of the Tribe. Such interim ordinance shall only remain in effect for 90 days.

78.110 Effect of denial of application. Whenever an application for an amendment of the text of this ordinance or for rezoning of any property is denied, the application for such amendment or for rezoning of all or any portion of the property shall not be eligible for reconsideration for one year following such denial, except in the following cases:

A. Upon initiation by the council or commission;

B. When the new application, although involving all or a portion of the same property, is for a different zoning district than that previously applied for.

Chapter 80

FEES, CHARGES AND EXPENSES

Sections:

- 80.010 Schedule of fees, charges and expenses.
- 80.020 Payment of fees as prerequisite to action.
- 80.030 Exemption.
- 80.040 Refunds.

80.010 Schedule of fees, charges and expenses. The council shall by resolution establish a schedule of fees, charges and expenses for conditional use permits, amendments to rezone property, planned unit developments, architectural or site plan review, variances, appeals, and other matters pertaining to this ordinance. The schedule of fees may be changed or modified only by resolution of the council.

80.020 Payment of fees as prerequisite to action. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application, appeal or other matter pertaining to this ordinance as to which a fee, charge or payment of expense is required.

80.030 Exemption. At their discretion, the council may exempt individuals from payment of any fee or charge related to this ordinance.

80.040 Refunds. No fee, charge or expense shall be refundable except in any case where the Tribal Treasurer determines and certifies any such fee or portion thereof has been received in error, in which case the amount of money received in error may be refunded to the proper party, any such payment to be processed as are other demands against the Tribe.

Chapter 82

ADMINISTRATION AND ENFORCEMENT

Sections:

- 82.010 Purpose.
- 82.020 Documents issued in conflict with ordinance provisions.
- 82.030 Violation declared nuisance.
- 82.040 Remedies cumulative.
- 82.050 Enforcement and interpretation.
- 82.060 Violation--Penalty.

82.010 Purpose. The purpose of this chapter is to establish a functional and meaningful system of administration and enforcement.

82.020 Documents issued in conflict with ordinance provisions. All departments, officers and public employees vested with the duty or authority to issue permits, certificates or licenses shall issue no permit, certificate or license for uses, buildings or purposes within the Rancheria in conflict with the provisions of these regulations, and any such permit, certificate or license issued in conflict with the provisions of these regulations shall be null and void.

82.030 Violation declared nuisance. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this chapter, or, any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this chapter, shall be and the same is declared to be unlawful and a public nuisance.

82.040 Remedies cumulative. The remedies provided for herein shall be cumulative and not exclusive.

82.050 Enforcement and interpretation. The planning director and the planning commission, with the assistance of the Tribal attorney, shall be responsible for the administration, interpretation, enforcement and correction of violations of the provisions of this ordinance, subject to the provisions of Section 82.020.

82.060 Violation--Penalty. Any person, whether principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of these regulations shall be subject to a civil penalty punishable by a fine of not more than five hundred dollars and be subject to a civil enforcement action to enjoin the violation.

Chapter 84

APPEALS TO COUNCIL AND PLANNING COMMISSION

Sections:

- 84.010 Purpose.
- 84.020 Definitions.
- 84.030 Actions appealable to council.
- 84.050 Filing notice of appeal with commission.
- 84.060 Notice of appeal--Time limit.
- 84.070 Notice of appeal--Contents.
- 84.080 Appeal fee.
- 84.090 Action by secretary.
- 84.100 Public hearing may be held.
- 84.110 Consideration by commission.
- 84.120 Special appeal procedure for Chapters 38 and 40.

84.010 Purpose. The purpose of the appeal procedure is to provide a general method of recourse for persons aggrieved by or dissatisfied with any action by an administrative agency of the Tribe in the administration or enforcement of any provisions of this ordinance.

84.020 Definitions. Unless it is plainly evident from the context of this chapter that a different meaning is intended, certain terms used in this chapter are defined as follows:

A. "Action" means the issuance, granting, approval, extension or amendment of any license, permit, certificate, variance or other entitlement; or the imposition of any condition in connection therewith; or the denial, disapproval, suspension or revocation thereof; the making or failure or refusal to make any finding; or the imposition of any order or requirement; or any other decision or determination pursuant to this ordinance.

B. "Administrative agency" means any administrative official, board, commission, body or other agency of the Tribe, except the council.

C. "Applicant" means any person whose application for a license, permit, certificate, findings, variance or other entitlement was approved, issued or granted by an administrative agency, where an appeal is taken from the action of such agency by a third-party appellant.

D. "Direct subject appellant" means any person who appeals an action taken:

1. In connection with an application which he/she filed or which was filed on his/her behalf with an administrative agency; or

2. In connection with suspension or revocation of any license, permit, certificate or other entitlement previously granted or issued to him/her; or

3. Ordering him/her or advising him/her that he/she will be required to perform or cease and desist from performing any act, or correct any omission or deficiency.

E. "Third-party appellant" means any person aggrieved by any action who is not defined in this section as a direct subject appellant.

84.030 Actions appealable to council. Any action of the commission may be appealed to the council in accordance with the procedures set forth in this chapter.

84.050 Filing notice of appeal with commission. Any person aggrieved by or dissatisfied with, or excepting to any action by an administrative agency, as to which an appeal to the commission is authorized pursuant to Section 84.040, may appeal from such action by filing a written notice of appeal with the Tribal Secretary, directed to the commission.

84.060 Notice of appeal--Time limit. A. A notice of appeal of a direct subject appellant who is aggrieved by or dissatisfied with a decision on an application made by him/her or in his/her behalf, or with any action order, requirement, decision or determination as to which he/she is a direct subject appellant shall not be acted upon unless filed within ten days after service of written notice of such action appealed from.

B. A notice of appeal of a third-party appellant who is not a direct subject of the actions from which the appeal is sought, shall not be acted upon unless filed within ten days of the action, denial, order, requirement, permit, decision or determination which is the subject of the appeal.

C. No appeal shall be submitted to the commission for consideration if the notice of appeal is not filed within the time limit prescribed in this section unless the appellant shall file with the Tribal Secretary a written request for leave to file a late appeal. The request shall specify the reasons why the notice of the appeal was not timely filed. The request shall not be submitted to the commission unless it shall have been filed with the Tribal Secretary not more than thirty days from the date of the action, denial, order, requirement, permit, decision or determination from which appeal is sought. A timely request shall be considered by the commission and may be granted only if the commission finds that there is good cause for tardiness in filing the appeal; provided, however, that if the request was filed by a third-party appellant, the commission shall not grant it unless it makes the additional finding that the delay in the filing of the notice of appeal will not work to the substantial prejudice of the applicant and will not cause him/her substantial economic hardship.

D. The timely filing of a notice of appeal by a third-party appellant, or the granting of a request for leave to file a late appeal to such an appellant, shall cause a stay in the operative effect of the action, permit decision or determination from which the appeal has been taken until the commission shall have rendered its decision on the appeal, unless the appeal is first withdrawn.

E. When a request for leave to file a late appeal has been timely filed, the tribal secretary shall schedule the matter promptly upon the commission agenda at a subsequent regular meet-

ing. He/she shall cause notice thereof to be given not less than five days prior to such meeting to the person filing the request, and in the case of a request filed a person who, as an appellant, would be described under subsection B, he/she shall also cause such notice to be sent to the applicant.

84.070 Notice of appeal--Contents. A. The notice of appeal shall set forth:

1. The specific action appealed from;
2. The specific grounds of the appeal; and
3. The relief or action sought from the commission.

B. In the event any notice of appeal fails to set forth any information set forth by this section, the tribal secretary shall return the same to the appellant with a statement of the respects in which it is deficient, and the appellant shall thereafter be allowed five days in which to perfect and re-file his/her notice of appeal.

84.080 Appeal fee. Except where an appeal is filed by the Chairperson of the council or other council member in pursuance of his/her official duties, the written notice of appeal shall be accompanied by a fee, as established by resolution of the council. If the notice of appeal is not accompanied by a fee, or if the amount paid is insufficient to constitute the appropriate fee, the tribal secretary shall promptly notify the appellant of the deficiency and shall advise him/her that the appeal shall not be considered unless the deficiency is corrected within five days of the notice. No appeal shall be scheduled for consideration by the commission unless and until the appropriate appeal fee has been paid. If a deficiency in payment of an appeal fee is not corrected within the time period prescribed in the notice, the right of appeal shall be terminated.

84.090 Action by secretary. Upon the timely filing of a notice of appeal in proper form and with payment of the appeal fee pursuant to Section 84.080 (including cases in which the notice of appeal was filed upon the granting of leave to file a late appeal by the commission), the tribal secretary shall schedule the matter promptly on the commission agenda at a subsequent regular meeting and shall cause notice thereof to be given the appellant not less than five days prior to such hearing, unless such notice is waived in writing by the appellant. Where the notice of appeal was filed by a third-party appellant, the notice of hearing shall be given to the applicant not less than five days prior thereto. The tribal secretary shall also cause a copy of the notice of appeal to be transmitted to the official or body whose action has been appealed from. Notice of hearing given pursuant to this section shall be in writing and shall be deemed to have been given upon deposit with the United

States Postal Service of such notice by first-class mail or air-mail, postage prepaid, addressed to the last known address of the appellant.

84.100 Public hearing may be held. No public hearing need be held by the commission on any such appeal, provided that a public hearing may be held when the same is deemed necessary in the public interest. If a public hearing is ordered, notice thereof shall be given by publishing notice of the same in a newspaper of general circulation sold on the Rancheria not less than ten days prior to the date of such hearing, and by such other means as the commission deems necessary.

84.110 Consideration by commission. A. Consideration by Commission. At the time of consideration of the appeal by the commission, the appellant shall be limited to a presentation on the specific grounds of appeal and matters set forth in this notice of appeal and shall have the burden of establishing cause why the action appealed from should be altered, reversed or modified. Where the notice of appeal was filed by a third-party appellant, the applicant shall have the right to present evidence in support of the action.

B. Action by Commission. The commission may continue the matter from time to time, and at the conclusion of its consideration may affirm, reverse or modify the action appealed from and may take any action which might have been taken in the first instance by the administrative agency from whose action the appeal has been taken.

84.120 Special appeal procedure for Chapters 38 and 40.

A. 1. The planning commission shall hear and decide appeals from the requirements of Chapters 38 and 40 of this ordinance when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of these chapters. Those aggrieved by the decision of the planning commission, may appeal such decision to the council.

2. In passing upon such applications, the planning commission shall consider all technical evaluations, all relevant factors and standards specified in other sections of this ordinance, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and Flood Plain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodgates, and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.

3. Upon consideration of the factors listed above and the purposes of Chapters 38 and 40, the planning commission may attach such conditions to the granting of an appeal as it deems necessary to further those purposes.

B. The following criteria shall apply to the granting of appeals from requirements, decisions or determinations made by the building official in the enforcement or administration of Chapters 38 and 40:

1. Appeals may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

2. Appeals shall not be granted within any designated Floodway if any increase in flood levels during the base flood discharge would result.

3. Appeals shall only be granted upon a determination that the appeal granted with conditions is the minimum necessary, considering the flood hazard, to afford relief.

4. Appeal shall only be granted upon:

- a. A showing of good and sufficient cause;
- b. A determination that failure to grant the appeal would result in exceptional hardship to the applicant; and
- c. A determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing tribal ordinances.

5. Any applicant to whom an appeal is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest-floor elevation. The building official shall maintain the records of all appeal actions and report any grants of appeal to the Federal Insurance Administration and the Federal Emergency Management Agency.

Section 3. Severability. If any part of provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

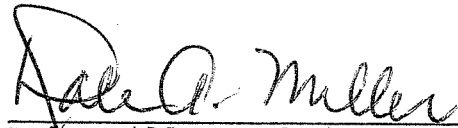
Section 4. Repeal of all Prior or Inconsistent Ordinances. All ordinances or resolutions previously enacted by the Council which are inconsistent with any of the provisions of this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall take effect immediately after its passage.

CERTIFICATION

The foregoing ordinance was adopted at a regular meeting of the Tribal Council of the Elk Valley Rancheria, with a quorum present, held on the 17th day of October, 2001, and adopted by the following vote:

AYES: 6
NOES: 0
ABSENT: 2
Abstain: 0


Dale Miller, Chairman

ATTESTED:


Secretary of the Tribal Council
Donna Townsend

Exhibit C

TRIBAL RESOLUTION RE: AUTHORIZATION TO ENTER
MEMORANDUM OF UNDERSTANDING AND AUTHORIZING LIMITED
WAIVER OF SOVEREIGN IMMUNITY

Elk Valley
RANCHERIA
Crescent City, CA



P. O. Box 1042
440 Mathews Street
Crescent City, CA 95531

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RESOLUTION NO. ____

**TRIBAL RESOLUTION OF THE ELK VALLEY RANCHERIA
AUTHORIZATION TO ENTER MEMORANDUM OF UNDERSTANDING
AND LIMITED WAIVER OF SOVEREIGN IMMUNITY**

WHEREAS: the Elk Valley Rancheria (hereinafter the "Tribe") is a federally recognized Indian tribe; and

WHEREAS: the Elk Valley Rancheria adopted a Tribal Constitution which was approved by the Assistant Secretary of Indian Affairs on December 27, 1994; and

WHEREAS: the Tribal Council is the governing body of the Tribe pursuant to the Tribal Constitution; and

WHEREAS: the Tribe Council has determined that it is in the Tribe's best interest to enter into an agreement, known as the Memorandum of Understanding, with the County of Del Norte, California, attached hereto as Exhibit A; and

WHEREAS: the Memorandum of Understanding provides, among other things, for cooperative actions between the Tribe and the County of Del Norte in conjunction with the anticipated development by the Tribe of a gaming facility to be operated in accordance with the provisions of the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. § 2701, *et seq.* ("IGRA");

WHEREAS: the Memorandum of Understanding concerns a wide range of issues of concern to the Tribe and the County of Del Norte, including land use, law enforcement and fire protection and related jurisdiction over the Tribe's lands, and compliance with enumerated standards for building construction and design, all of which are important to both parties; and

WHEREAS: the Memorandum of Understanding provides for formal County of Del Norte support for the Tribe's application to have certain lands within the county taken into trust for gaming purposes by the Secretary of the Interior in accordance with IGRA;

NOW THEREFORE BE IT RESOLVED that the Tribal Council hereby authorizes and directs the Tribal Council Chairperson or Vice-Chairperson, as appropriate, to execute and deliver the Memorandum of Understanding on behalf of the Tribe in substantially the form as provided in Exhibit A to this Resolution and further authorizes the Chairperson or Vice-Chairperson to make such changes to the Memorandum of Understanding prior to execution and delivery of the Memorandum of Understanding as the Chairperson or Vice-Chairperson determine to be appropriate with the advice of counsel to the Tribe; and

BE IT FURTHER RESOLVED that the Chairperson or Vice-Chairperson is authorized to execute and deliver on behalf of the Tribe such additional instruments and certifications as may be necessary and appropriate in order to implement this Resolution, the Chairperson's or Vice-Chairperson's, as appropriate, execution and delivery of the Memorandum of Understanding or additional instrument or certification being conclusive evidence of his approval thereof in accordance with this Resolution; and,

BE IT FINALLY RESOLVED that by this Resolution and upon execution of the Memorandum of Understanding the Tribe waives on a limited basis its sovereign immunity in favor of the County of Del Norte in conjunction with and to the extent provided in the Memorandum of Understanding; that the Tribal Council specifically consents to the enforcement of the terms of the Memorandum of Understanding by the County of Del Norte in accordance with the provisions of, and subject in all cases to, the limitations contained in the Memorandum of Understanding upon adoption by the County of Del Norte of the Memorandum of Understanding; and that the Tribal Council specifically limits this limited waiver of sovereign immunity to matters arising under and in connection with the Memorandum of Understanding, and for no other purpose.

CERTIFICATION

The foregoing resolution was adopted by a vote of _____ for, and _____ against and _____ abstentions and ___ absent, at a duly called meeting of the Tribal Council, at which a quorum was present, on this 23rd day of January, 2002.

Dale A. Miller, Tribal Council Chairman

Date of Approval

ATTEST:

Donna Townsend, Tribal Council Secretary

Date of Approval

